RULE MAKING ACTIVITIES

Each rule making is identified by an I.D. No., which consists of 13 characters. For example, the I.D. No. AAM-01-96-00001-E indicates the following:

AAM -the abbreviation to identify the adopting agency
01 -the *State Register* issue number
96 -the year
00001 -the Department of State number, assigned upon receipt of notice.
E -Emergency Rule Making—permanent action not intended (This character could also be: A for Adoption; P for Proposed Rule Making; RP for Revised Rule Making; EP for a combined Emergency and Proposed Rule Making; EA for an Emergency Rule Making that is permanent and does not expire 90 days after filing.)

Italics contained in text denote new material. Brackets indicate material to be deleted.

Department of Audit and Control

NOTICE OF ADOPTION

Prompt Payment Processing

I.D. No. AAC-18-15-00003-A
Filing No. 873
Filing Date: 2015-10-05
Effective Date: 2015-10-21

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of section 18.1(f), (g) and (h) of Title 2 NYCRR.

Statutory authority: State Finance Law, section 79-m

Subject: Prompt payment processing.

Purpose: To include electronic invoices and the processing of e-invoices within the procedures for calculating prompt payment interest.

Text or summary was published in the May 6, 2015 issue of the Register, I.D. No. AAC-18-15-00003-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Jamie Elacqua, Office of the State Comptroller, 110 State Street, Albany, NY 12236, (518) 473-4146, email: jelacqua@osc.state.ny.us

Assessment of Public Comment
The agency received no public comment.

NOTICE OF ADOPTION

Meeting Attendance for Members of the Investment Advisory Committee

I.D. No. AAC-33-15-00001-A
Filing No. 876
Filing Date: 2015-10-06
Effective Date: 2015-10-21

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of section 352.3 of Title 2 NYCRR.

Statutory authority: Retirement and Social Security Law, sections 11, 13, 311 and 313

Subject: Meeting attendance for members of the Investment Advisory Committee.

Purpose: To allow members of the Investment Advisory Committee to attend via conference call or certain other electronic means.

Text or summary was published in the August 19, 2015 issue of the Register, I.D. No. AAC-33-15-00001-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Jamie Elacqua, Office of the State Comptroller, 110 State Street, Albany, NY 12236, (518) 473-4146, email: jelacqua@osc.state.ny.us

Assessment of Public Comment
The agency received no public comment.

NOTICE OF ADOPTION

Role and Responsibilities of the Agency Privacy Officer; Conform the Regulation to Law; Correcting Typographical Errors

I.D. No. AAC-33-15-00003-A
Filing No. 875
Filing Date: 2015-10-06
Effective Date: 2015-10-21

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Part 111 of Title 2 NYCRR.

Statutory authority: State Finance Law, section 8(14); Public Officers Law, section 94(2)

Subject: Role and responsibilities of the agency privacy officer; conform the regulation to law; correcting typographical errors.

Purpose: To clarify the role and responsibilities of the agency privacy officer, and to conform the regulation to law.

Text or summary was published in the August 19, 2015 issue of the Register, I.D. No. AAC-33-15-00003-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Jamie Elacqua, Office of the State Comptroller, 110 State Street, Albany, NY 12236, (518) 473-4146, email: jelacqua@osc.state.ny.us

Assessment of Public Comment
The agency received no public comment.

Department of Civil Service

NOTICE OF ADOPTION

Jurisdictional Classification

I.D. No. CVS-11-15-00002-A
Filing No. 883
Filing Date: 2015-10-06
Effective Date: 2015-10-21

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:
Action taken: Amendment of Appendix 1 of Title 4 NYCRR.
Statutory authority: Civil Service Law, section 6(1)
Subject: Jurisdictional Classification.
Purpose: To classify a position in the exempt class.
Text or summary was published in the March 18, 2015 issue of the Register, I.D. No. CVS-11-15-00002-P.
Final rule as compared with last published rule: No changes.
Text of rule and any required statements and analyses may be obtained from: Jennifer Paul, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-6598, email: jennifer.paul@cs.ny.gov
Assessment of Public Comment
The agency received no public comment.

NOTICE OF ADOPTION

Jurisdictional Classification

I.D. No. CVS-11-15-00003-A
Filing No. 880
Filing Date: 2015-10-06
Effective Date: 2015-10-21

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:
Action taken: Amendment of Appendix 1 of Title 4 NYCRR.
Statutory authority: Civil Service Law, section 6(1)
Subject: Jurisdictional Classification.
Purpose: To classify a position in the exempt class.
Text or summary was published in the March 18, 2015 issue of the Register, I.D. No. CVS-11-15-00003-P.
Final rule as compared with last published rule: No changes.
Text of rule and any required statements and analyses may be obtained from: Jennifer Paul, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-6598, email: jennifer.paul@cs.ny.gov
Assessment of Public Comment
The agency received no public comment.

NOTICE OF ADOPTION

Jurisdictional Classification

I.D. No. CVS-11-15-00005-A
Filing No. 881
Filing Date: 2015-10-06
Effective Date: 2015-10-21

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:
Action taken: Amendment of Appendix 1 of Title 4 NYCRR.
Statutory authority: Civil Service Law, section 6(1)
Subject: Jurisdictional Classification.
Purpose: To classify positions in the exempt class.
Text or summary was published in the March 18, 2015 issue of the Register, I.D. No. CVS-11-15-00005-P.
Final rule as compared with last published rule: No changes.
Text of rule and any required statements and analyses may be obtained from: Jennifer Paul, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-6598, email: jennifer.paul@cs.ny.gov
Assessment of Public Comment
The agency received no public comment.

NOTICE OF ADOPTION

Jurisdictional Classification

I.D. No. CVS-11-15-00006-A
Filing No. 878
Filing Date: 2015-10-06
Effective Date: 2015-10-21

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:
Action taken: Amendment of Appendix 1 of Title 4 NYCRR.
Statutory authority: Civil Service Law, section 6(1)
Subject: Jurisdictional Classification.
Purpose: To delete positions from and classify positions in the exempt class.
Text or summary was published in the March 18, 2015 issue of the Register, I.D. No. CVS-11-15-00006-P.
Final rule as compared with last published rule: No changes.
Text of rule and any required statements and analyses may be obtained from: Jennifer Paul, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-6598, email: jennifer.paul@cs.ny.gov
Assessment of Public Comment
The agency received no public comment.

NOTICE OF ADOPTION

Jurisdictional Classification

I.D. No. CVS-11-15-00007-A
Filing No. 882
Filing Date: 2015-10-06
Effective Date: 2015-10-21

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:
Action taken: Amendment of Appendix 2 of Title 4 NYCRR.
Statutory authority: Civil Service Law, section 6(1)
Subject: Jurisdictional Classification.
Purpose: To delete a position from and classify a position in the noncompetitive class.
Text or summary was published in the March 18, 2015 issue of the Register, I.D. No. CVS-11-15-00007-P.
Final rule as compared with last published rule: No changes.
Text of rule and any required statements and analyses may be obtained from: Jennifer Paul, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-6598, email: jennifer.paul@cs.ny.gov
Assessment of Public Comment
The agency received no public comment.

NOTICE OF ADOPTION

Jurisdictional Classification

I.D. No. CVS-11-15-00008-A
Filing No. 884
Filing Date: 2015-10-06
Effective Date: 2015-10-21

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:
Action taken: Amendment of Appendix 2 of Title 4 NYCRR.

Statutory authority: Civil Service Law, section 6(1)

Subject: Jurisdictional Classification.

Purpose: To classify a position in the non-competitive class.

Text or summary was published in the March 18, 2015 issue of the Register, I.D. No. CVS-11-15-00008-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Jennifer Paul, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-6598, email: jennifer.paul@cs.ny.gov

Assessment of Public Comment
The agency received no public comment.

NOTICE OF ADOPTION

Jurisdictional Classification

I.D. No. CVS-11-15-00009-A
Filing No. 879
Filing Date: 2015-10-06
Effective Date: 2015-10-21

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Appendix 2 of Title 4 NYCRR.

Statutory authority: Civil Service Law, section 6(1)

Subject: Jurisdictional Classification.

Purpose: To delete a position from and classify positions in the non-competitive class.

Text or summary was published in the March 18, 2015 issue of the Register, I.D. No. CVS-11-15-00009-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Jennifer Paul, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-6598, email: jennifer.paul@cs.ny.gov

Assessment of Public Comment
The agency received no public comment.

NOTICE OF ADOPTION

Jurisdictional Classification

I.D. No. CVS-11-15-00010-A
Filing No. 877
Filing Date: 2015-10-06
Effective Date: 2015-10-21

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Appendix 2 of Title 4 NYCRR.

Statutory authority: Civil Service Law, section 6(1)

Subject: Jurisdictional Classification.

Purpose: To delete subheadings and positions from and classify positions in the non-competitive class.

Text or summary was published in the March 18, 2015 issue of the Register, I.D. No. CVS-11-15-00010-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Jennifer Paul, NYS Department of Civil Service, Empire State Plaza, Agency Building 1, Albany, NY 12239, (518) 473-6598, email: jennifer.paul@cs.ny.gov

Assessment of Public Comment
The agency received no public comment.

Department of Financial Services

EMERGENCY RULE MAKING

Public Retirement Systems

I.D. No. DFS-42-15-00001-E
Filing No. 852
Filing Date: 2015-09-30
Effective Date: 2015-09-30

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of Part 136 (Regulation 85) of Title 11 NYCRR.

Statutory authority: Financial Services Law, sections 202 and 302; Insurance Law, sections 301, 314, 7401(a) and 7402(n)

Finding of necessity for emergency rule: Preservation of general welfare.

Specific reasons underlying the finding of necessity: The Second Amendment to 11 NYCRR 136 (Insurance Regulation 85), effective November 19, 2008, established new standards of behavior with regard to investment of the assets of the New York State Common Retirement Fund ("Fund"), conflicts of interest, and procurement. In addition, it created new audit and actuarial committees, and greatly strengthened the investment advisory committee. The Second Amendment also set high ethical standards, strengthened internal controls and governance, enhanced the operational transparency of the Fund, and strengthened supervision by the Department.

Nevertheless, recent events surrounding how placement agents conduct business on behalf of their clients with regard to the Fund compel the Superintendent to conclude that the mere strengthening of the Fund's control environment is insufficient to protect the integrity of the state employees' retirement systems. Rather, only an immediate ban on the use of placement agents will ensure sufficient protection of the Fund's members and beneficiaries and safeguard the integrity of the Fund's investments.

This regulation was previously promulgated on an emergency basis on June 18, 2009, September 16, 2009, January 5, 2010, April 2, 2010, May 28, 2010, July 29, 2010, September 23, 2010, November 19, 2010, January 18, 2011, March 21, 2011, May 19, 2011, August 16, 2011, November 10, 2011, February 7, 2012, May 7, 2012, August 3, 2012, October 31, 2012, January 28, 2013, April 26, 2013, July 24, 2013, October 21, 2013, January 17, 2014, April 16, 2014, July 14, 2014, October 10, 2014, January 7, 2015, April 6, 2015, and July 3, 2015.

Subject: Public Retirement Systems.

Purpose: To ban the use of placement agents by investment advisors engaged by the State Employees' Retirement Systems.

Text of emergency rule: Section 136-2.2 is amended to read as follows:

§ 136-2.2 Definitions.

The following words and phrases, as used in this Subpart, unless a different meaning is plainly required by the context, shall have the following meanings:

[(a) Retirement system shall mean the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System.]

[(b) Fund shall mean the New York State Common Retirement Fund, a fund in the custody of the Comptroller as trustee, established pursuant to Section 422 of the Retirement and Social Security Law, which holds the assets of the retirement system.]

[(c)]*(a)* Comptroller shall mean the Comptroller of the State of New York in his capacity as administrative head of the Retirement System and the sole trustee of the [fund] *Fund*.

[(d) OSC shall mean the Office of the State Comptroller.]

[(e)]*(b)* Consultant or advisor shall mean any person (other than an OSC employee) or entity retained by the [fund] *Fund* to provide technical or professional services to the [fund] *Fund* relating to investments by the [fund] *Fund*, including outside investment counsel and litigation counsel, custodians, administrators, broker-dealers, and persons or entities that identify investment objectives and risks, assist in the selection of [money] *investment* managers, securities, or other investments, or monitor investment performance.

(c) Family member shall mean any person living in the same household as the Comptroller, and any person related to the Comptroller within the third degree of consanguinity or affinity.

(d) Fund shall mean the New York State Common Retirement Fund, a fund in the custody of the Comptroller as trustee, established pursuant to Section 422 of the Retirement and Social Security Law ("RSSL"), which holds the assets of the Retirement System.

[f] *(e)* Investment manager shall mean any person (other than an OSC employee) or entity engaged by the Fund in the management of part or all of an investment portfolio of the [fund] *Fund*. "Management" shall include, but is not limited to, analysis of portfolio holdings, and the purchase, sale, and lending thereof. For the purposes hereof, any investment made by the Fund pursuant to RSSL § 177(7) shall be deemed to be the investment of the Fund in such investment entity (rather than in the assets of such investment entity).

(f) Investment policy statement shall mean a written document that, consistent with law, sets forth a framework for the investment program of the Fund.

(g) OSC shall mean the Office of the State Comptroller.

[(g)] *(h)* Placement agent or intermediary shall mean any person or entity*, including registered lobbyists, directly or indirectly* engaged *and compensated* by an investment manager (other than [an] *a regular* employee of the investment manager) to *promote investments to or solicit investment by* [assist the investment manager in obtaining investments by the fund, or otherwise doing business with] the [fund] *Fund*, whether compensated on a flat fee, a contingent fee, or any other basis. Regular employees of an investment manager are excluded from this definition unless they are employed principally for the purpose of *securing or influencing the decision to secure a particular transaction or investment by the Fund.*[obtaining investments or providing other intermediary services with respect to the fund.] *For purpose of this paragraph, the term "employee" shall include any person who would qualify as an employee under the federal Internal Revenue Code of 1986, as amended, but shall not include a person hired, retained or engaged by an investment manager to secure or influence the decision to secure a particular transaction or investment by the Fund.*

[(h) Investment policy statement shall mean a written document that, consistent with law, sets forth a framework for the investment program of the fund.]

[(i) Third party administrator shall mean any person or entity that contractually provides administrative services to the retirement system, including receiving and recording employer and employee contributions, maintaining eligibility rosters, verifying eligibility for benefits or paying benefits and maintaining any other retirement system records. Administrative services do not include services provided to the fund relating to fund investments.]

(i) Retirement System shall mean the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System.

(j) Third party administrator shall mean any person or entity that contractually provides administrative services to the Retirement System, including receiving and recording employer and employee contributions, maintaining eligibility rosters, verifying eligibility for benefits, paying benefits or maintaining any other Retirement System records. "Administrative services" do not include services provided to the Fund relating to Fund investments.

[(j)] *(k)* Unaffiliated Person shall mean any person other than: (1) the Comptroller or a family member of the Comptroller, (2) an officer or employee of OSC, (3) an individual or entity doing business with OSC or the [fund] *Fund*, or (4) an individual or entity that has a substantial financial interest in an entity doing business with OSC or the [fund] *Fund*. For the purpose of this paragraph, the term "substantial financial interest" shall mean the control of the entity, whereby *"*control*"* means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of the entity, whether through the ownership of voting securities, by contract (except a commercial contract for goods or non-management services) or otherwise; but no individual shall be deemed to control an entity solely by reason of his being an officer or director of such entity. Control shall be presumed to exist if any individual directly or indirectly owns, controls or holds with the power to vote ten percent or more of the voting securities of such entity.

[(k) Family member shall mean any person living in the same household as the Comptroller, and any person related to the Comptroller within the third degree of consanguinity or affinity.]

Section 136-2.4 (d) is amended to read as follows:

(d) Placement agents or intermediaries: In order to preserve the independence and integrity of the [fund] *Fund*, to [address] *preclude* potential conflicts of interest, and to assist the Comptroller in fulfilling his or her duties as a fiduciary to the [fund] *Fund*, [the Comptroller shall maintain a reporting and review system that must be followed whenever the fund] *the Fund shall not* [engages, hires, invests with, or commits] *engage, hire, invest with or commit* to[,] an outside investment manager who is using the services of a placement agent or intermediary to assist the investment manager in obtaining investments by the [fund] *Fund*. [, or otherwise doing business with the fund. The Comptroller shall require investment managers to disclose to the Comptroller and to his or her designee payments made to any such placement agent or intermediary. The reporting and review system shall be set forth in written guidelines and such guidelines shall be published on the OSC public website.]

Section 136-2.5 (g) is amended to read as follows:

(g) The Comptroller shall:

(1) file with the superintendent an annual statement in the format prescribed by Section 307 of the Insurance Law, including the [retirement system's] *Retirement System's* financial statement, together with an opinion of an independent certified public accountant on the financial statement;

(2) file with the superintendent the Comprehensive Annual Financial Report within the time prescribed by law, but no later than the time it is published on the OSC public website;

(3) disclose on the OSC public website, on at least an annual basis, all fees paid by the [fund] *Fund* to investment managers, consultants or advisors, and third party administrators;

[(4) disclose on the OSC public website, on at least an annual basis, instances where an investment manager has paid a fee to a placement agent or intermediary;]

[(5)]*(4)* disclose on the OSC public website the [fund's] *Fund's* investment policies and procedures; and

[(6)]*(5)* require fiduciary and conflict of interest reviews of the [fund] *Fund* every three years by a qualified unaffiliated person.

This notice is intended to serve only as an emergency adoption, to be valid for 90 days or less. This rule expires December 28, 2015.

Text of rule and any required statements and analyses may be obtained from: Mark McLeod, New York State Department of Financial Services, One State Street, New York, NY 10004, (212) 480-4937, email: mark.mcleod@dfs.ny.gov

Regulatory Impact Statement

1. Statutory authority: The Superintendent's authority for the adoption of the rule to 11 NYCRR 136 is derived from sections 202 and 302 of the Financial Services Law ("FSL") and sections 301, 314, 7401(a), and 7402(n) of the Insurance Law.

FSL section 202 establishes the office of the Superintendent and designates the Superintendent to be the head of the Department of Financial Services ("DFS").

FSL section 302 and Insurance Law section 301, in material part, authorize the Superintendent to effectuate any power accorded to him by the Insurance Law, the Banking Law, the Financial Services Law, or any other law of this state and to prescribe regulations interpreting the Insurance Law.

Insurance Law section 314 vests the Superintendent with the authority to promulgate standards with respect to administrative efficiency, discharge of fiduciary responsibilities, investment policies and financial soundness of the public retirement and pension systems of the State of New York, and to make an examination into the affairs of every system at least once every five years in accordance with Insurance Law sections 310, 311 and 312. The implementation of the standards is necessarily through the promulgation of regulations.

As confirmed by the Court of Appeals in Matter of Dinallo v. DiNapoli, 9 N.Y. 3d 94 (2007), the Superintendent functions in two distinct capacities. The first is as regulator of the insurance industry. The second is as statutory receiver of financially distressed insurance entities. Article 74 of the Insurance Law sets forth the Superintendent's role and responsibilities in this latter capacity.

Insurance Law section 7401(a) sets forth the entities, including the public retirement systems, to which Article 74 applies.

Insurance Law section 7402(n) provides that it is a ground for rehabilitation if an entity subject to Article 74 has failed or refused to take such steps as may be necessary to remove from office any officer or director whom the Superintendent has found, after appropriate notice and hearing, to be a dishonest or untrustworthy person.

2. Legislative objectives: Insurance Law section 314 authorizes the Superintendent to promulgate and amend, after consultation with the respective administrative heads of public retirement and pension systems and after a public hearing, standards with respect to the public retirement and pension systems of the State of New York.

This rule, which in effect bans the use of an investment tool that has been found to be untrustworthy, is consistent with the public policy objectives that the Legislature sought to advance in enacting Insurance Law section 314, which provides the Superintendent with the powers to promulgate standards to protect the New York State Common Retirement Fund (the "Fund").

3. Needs and benefits: The Second Amendment to 11 NYCRR 136 (Regulation 85), effective November 19, 2008, established new standards

with regard to investment of the assets of the Fund, conflicts of interest and procurement. In addition, the Second Amendment created new audit and actuarial committees, and greatly strengthened the investment advisory committee. The Second Amendment also set high ethical standards, strengthened internal controls and governance, enhanced the operational transparency of the Fund, and strengthened supervision by the Department.

Nevertheless, recent allegations regarding "pay to play" practices, whereby politically connected individuals reportedly sold access to investment opportunities with the Fund, compel the Superintendent to conclude that the mere strengthening of the Fund's control environment is insufficient to protect the integrity of the state employees' retirement systems. The Third Amendment to Regulation 85 will adopt an immediate ban on the use of placement agents to ensure sufficient protection of the Fund's members and beneficiaries, and safeguard the integrity of the Fund's investments. Further, the rule defines "placement agent or intermediary" in a manner that both thwarts evasion of the ban while ensuring that such ban not extend to persons otherwise acting lawfully on behalf of investment managers.

4. Costs: The rule does not impose any additional requirements on the Comptroller, and no additional costs are expected to result from the implementation of the ban imposed by this rule. There are no costs to the Department or other state government agencies or local governments. Investment managers, consultants and advisors who provide services to the Fund, which are required to discontinue the use of placement agents in connection with investment services they provide to the Fund, may lose opportunities to do business with the Fund.

5. Local government mandates: The rule imposes no new programs, services, duties or responsibilities on any county, city, town, village, school district, fire district or other special district.

6. Paperwork: No additional paperwork should result from the prohibition imposed by the rule.

7. Duplication: This rule will not duplicate any existing state or federal rule.

8. Alternatives: The Superintendent considered other ways to limit the influence of placement agents, including a partial ban, increased disclosure requirements, and adopting alternative definitions of placement agent or intermediary. The Department considered limiting the ban to include intent on the part of the party using placement agents, or defining "placement agent" in more general terms.

In developing the rule, the Superintendent and State Comptroller not only consulted with one another, but also briefed representatives of: (1) New York State and New York City Public Employee Unions; (2) New York City Retirement and Pension Funds; (3) the Borough Presidents of the five counties of New York City; and (4) officials of the New York City Mayor's Office, Comptroller's Office and Finance Department. These entities agreed with the concerns expressed by the Department and intend to explore remedies most appropriate to the pension funds that they represent.

Initially, the Superintendent concluded that only an immediate total ban on the use of placement agents could provide sufficient protection of the Fund's members and beneficiaries and safeguard the integrity of the Fund's investments. The proposed rule was published in the State Register on March 17, 2010. A Public Hearing was held on April 28, 2010. The following comments were received:

Blackstone Group, a global investment manager and financial advisor, wrote to oppose the proposed ban on the use of placement agents by investment advisors engaged by the New York State Common Retirement Fund ("The Fund"). It stated that the rule would lessen the number of investment opportunities brought before the Fund, adversely affect small, medium-sized and women-and minority-owned investment firms seeking to do business with the Fund, and adversely affect a number of New York-headquartered financial institutions doing business as placement agents.

Blackstone suggested the inclusion of the following provisions in the rule instead:

- A ban on political contributions by any employee of any placement agent seeking to do business with the Fund;
- A requirement that any placement agent seeking do to business with the Fund be registered as a broker dealer with the SEC and ensure that its professionals have passed the appropriate Series qualifications administered by Financial Industry Regulatory Authority ("FINRA");
- A requirement that any placement agent seeking to do business in New York register with the Department; and
- A requirement that any placement agent representing an investment manager before the Fund fully disclose the contractual arrangement between it and the manager, including the fee arrangement and the scope of services to be provided.

The Securities Industry and Financial Markets Association ("SIFMA"), representing hundreds of securities firms, banks, and asset managers, commented that the proposed rule (1) inadvertently limits the access of smaller fund managers to the Fund; (2) restricts the number and types of advisers that could be utilized by the Fund; (3) creates an inherent conflict between federal and state law that would make it impossible to do business with the Fund while complying with both; and (4) adds duplicative regulation in an area already substantially regulated at the state level and that is primed for further federal regulation through the imminent imposition of a federal pay-to-play regime on all registered broker-dealers acting as placement agents. In addition, SIFMA provided language that it believes would be consistent with the existing federal requirements on the use of placement agents. SIFMA requested that the Department either exclude from the proposed rule those placement agents who are registered as broker-dealers under the Securities Exchange Act of 1934 or delay the enactment of the proposed rule until the federal and state placement agent initiatives are finalized.

The Superintendent did consider other ways to limit the influence of placement agents, including a partial ban, increased disclosure requirements, and adopting alternative definitions of placement agent or intermediary. The Department considered limiting the ban to include intent on the part of the party using placement agents, or defining "placement agent" in more general terms. At the time, the Superintendent concluded that only an immediate, total ban on the use of placement agents could provide sufficient protection of the Fund's members and beneficiaries and safeguard the integrity of the Fund's investments.

9. Federal standards: The Securities and Exchange Commission issued a "Pay-To-Play" regulation for financial advisors on July 1, 2010, which may have an impact on the issues addressed in the proposed rule.

10. Compliance schedule: The emergency adoption of this regulation on June 18, 2009 ensured that the ban would become enforceable immediately. The ban needs to remain in effect on an emergency basis until such time as an amended regulation can be made permanent.

Regulatory Flexibility Analysis

1. Effect of rule: This rule strengthens standards for the management of the New York State and Local Employees' Retirement System and New York State and Local Police and Fire Retirement System (collectively, "the Retirement System"), and the New York State Common Retirement Fund ("the Fund").

The Second Amendment to 11 NYCRR 136 (Insurance Regulation 85), effective November 19, 2008, established new standards with regard to investment of the assets of the Fund, conflicts of interest and procurement. In addition, the Second Amendment created new audit and actuarial committees, and greatly strengthened the investment advisory committee. The Second Amendment also set high ethical standards, strengthened internal controls and governance, enhanced the operational transparency of the Fund, and strengthened supervision by the Department.

Nevertheless, recent allegations regarding "pay to play" practices, whereby politically connected individuals reportedly sold access to investment opportunities with the Fund, compel the Superintendent to conclude that the mere strengthening of the Fund's control environment is insufficient to protect the integrity of the state employees' retirement systems. The Third Amendment to Insurance Regulation 85 will adopt an immediate ban on the use of placement agents to ensure sufficient protection of the Fund's members and beneficiaries, and safeguard the integrity of the Fund's investments. Further, the rule defines "placement agent or intermediary" in a manner that both thwarts evasion of the ban while ensuring that such ban not extend to persons otherwise acting lawfully on behalf of investment managers.

These standards are intended to assure that the conduct of the business of the Retirement System and the Fund, and of the State Comptroller (as administrative head of the Retirement System and as sole trustee of the Fund), are consistent with the principles specified in the rule. Most among all affected parties, the State Comptroller, as a fiduciary whose responsibilities are clarified and broadened, is impacted by the rule. The State Comptroller is not a "small business" as defined in section 102(8) of the State Administrative Procedure Act.

This rule will affect investment managers and other intermediaries (other than OSC employees) who provide technical or professional services to the Fund related to Fund investments. The rule will prohibit investment managers from using the services of a placement agent unless such agent is a regular employee of the investment manager and is acting in a broader capacity than just providing specific investment advice to the Fund. In addition, the rule is also directed to placement agents, who as a result of this rule, will no longer be engaged directly or indirectly by investment managers that do business with the Fund. Some investment managers and placement agents may come within the definition of "small business" set forth in section 102(8) of the State Administrative Procedure Act, because they are independently owned and operated, and employ 100 or fewer individuals.

The rule bans the use of placement agents in connection with investments by the Fund. This may adversely affect the business of placement agents, who will lose opportunities to earn profits in connection with investments by the Fund. Nevertheless, as a result of recent allegations

regarding "pay to play" practices, whereby politically connected individuals reportedly sold access to investment opportunities with the Fund, the Superintendent has concluded that an immediate ban on the use of placement agents is necessary to protect the Fund's members and beneficiaries and to safeguard the integrity of the Fund's investments.

This rule will not impose any adverse compliance requirements or result in any adverse impacts on local governments. The basis for this finding is that this rule is directed at the State Comptroller; employees of the Office of State Comptroller; and investment managers, placement agents, consultant or advisors - none of which are local governments.

2. Compliance requirements: None.

3. Professional services: Investment managers, consultants and advisors who provide services to the Fund, and are required to discontinue the use of placement agents in connection with investment services they provide to the Fund, may need to employ other professional services.

4. Compliance costs: The rule does not impose any additional requirements on the Comptroller, and no additional costs are expected to result from the implementation of the ban imposed by this rule. There are no costs to the Department of Financial Services or other state government agencies or local governments. However, investment managers, consultants and advisors who provide services to the Fund, which are required to discontinue the use of placement agents in connection with investment services they provide to the Fund, may lose opportunities to do business with the Fund.

5. Economic and technological feasibility: The rule does not impose any economic and technological requirements on affected parties, except for placement agents who will lose the opportunity to earn profits in connection with investments by the Fund.

6. Minimizing adverse impact: The costs to placement agents are lost opportunities to earn profits in connection with investments by the Fund. The Superintendent considered other ways to limit the influence of placement agents, including a partial ban, increased disclosure requirements, and adopting alternative definitions of placement agent or intermediary. But in the end, the Superintendent concluded that only an immediate total ban on the use of placement agents could provide sufficient protection of the Fund's members and beneficiaries and safeguard the integrity of the Fund's investments.

7. Small business and local government participation: In developing the rule, the Superintendent and State Comptroller not only consulted with one another, but also briefed representatives of: (1) New York State and New York City Public Employee Unions; (2) New York City Retirement and Pension Funds; (3) the Borough Presidents of the five counties of New York City; and (4) officials of the New York City Mayor's Office, Comptroller's Office and Finance Department.

A public hearing was held on April 28, 2010. Comments were received from two entities recommending that the total ban on the use of placement agents be modified. The Department will continue to assess the comments that have been received and any others that may be submitted.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas: Investment managers, placement agents, consultants or advisors that do business in rural areas as defined under State Administrative Procedure Act Section 102(10) will be affected by this rule. The rule bans the use of placement agents in connection with investments by the New York State Common Retirement Fund ("the Fund"), which may adversely affect the business of placement agents and of other entities that utilize placement agents and are involved in Fund investments.

2. Reporting, recordkeeping and other compliance requirements; and professional services: This rule will not impose any reporting, recordkeeping or other compliance requirements on public or private entities in rural areas, with the exception of requiring investment managers, consultants and advisors who provide services to the Fund to discontinue the use of placement agents.

3. Costs: The costs to placement agents are lost opportunities to earn profits in connection with investments by the Fund.

4. Minimizing adverse impact: The rule does not adversely impact rural areas.

5. Rural area participation: A public hearing was held on April 28, 2010. Comments were received from two entities recommending that the total ban on the use of placement agents be modified. The Department will continue to assess the comments that have been received and any others that may be submitted.

Job Impact Statement

The Department of Financial Services finds that this rule will have little or no impact on jobs and employment opportunities. The rule bans investment managers from using placement agents in connection with investments by the New York State Common Retirement Fund ("the Fund"). The rule may adversely affect the business of placement agents, who could lose the opportunity to earn profits in connection with investments by the Fund. Nevertheless, in view of recent events about how placement agents conduct business on behalf of their clients with regard to the Fund, the Superintendent has concluded that an immediate ban on the use of placement agents is necessary to protect the Fund's members and beneficiaries, and to safeguard the integrity of the Fund's investments.

New York State Gaming Commission

NOTICE OF ADOPTION

Numbers and Win-4 Lottery Wagers

I.D. No. SGC-33-15-00013-A
Filing No. 885
Filing Date: 2015-10-06
Effective Date: 2015-10-21

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of sections 5009.2 and 5010.2 of Title 9 NYCRR.

Statutory authority: Tax Law, sections 1601, 1604, 1612(a)(4); and Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1) and (19)

Subject: Numbers and Win-4 lottery wagers.

Purpose: To allow the Commission to introduce a new type of lottery wager to raise revenue for education.

Text or summary was published in the August 19, 2015 issue of the Register, I.D. No. SGC-33-15-00013-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Kristen Buckley, New York State Gaming Commission, One Broadway Center, PO Box 7500, Schenectady, New York 12301, (518) 388-3407, email: gamingrules@gaming.ny.gov

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2020, which is the 4th or 5th year after the year in which this rule is being adopted. This review period, justification for proposing same, and invitation for public comment thereon, were contained in a RFA, RAFA or JIS:

An assessment of public comment on the 4 or 5-year initial review period is not attached because no comments were received on the issue.

Assessment of Public Comment

The agency received no public comment.

Department of Health

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Standards for Adult Homes and Adult Care Facilities Standards for Enriched Housing

I.D. No. HLT-42-15-00016-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of Parts 487 and 488 of Title 18 NYCRR.

Statutory authority: Social Services Law, sections 20, 20(3)(d), 34, 34(3)(f), 131-o, 460, 460-a--460-g, 461 and 461-a--461-h

Subject: Standards for Adult Homes and Adult Care Facilities Standards for Enriched Housing.

Purpose: Revisions to Parts 487 and 488 in regards to the establishment of the Justice Center for Protection of People with Special Needs.

Substance of proposed rule (Full text is posted at the following State website:www.health.ny.gov): The Department proposes to amend 18 NYCRR Parts 487 and 488 to address the creation of the New York State

Justice Center for the Protection of People with Special Needs (Justice Center) pursuant to Chapter 501 of the Laws of 2012, and to conform the Department's regulations to requirements added or modified as a result of that Chapter Law. Specifically, the amendments:

- add definitions, such as "persons with serious mental illness," "abuse," "neglect," "reasonable cause to suspect," "reportable incident," "Justice Center," "custodian," "Department," "facility subject to the Justice Center," and "significant incident;"
- amend sections 487.5 and 488.5 to add occurrences which would constitute a reportable incident to the list of occurrences which residents should not experience, and to require the operator of certain facilities to conspicuously post the telephone number of the Justice Center incident reporting hotline;
- amend sections 487.7 and 488.7 to clarify a facility's obligations regarding what incidents must be investigated, how they must be investigated and who must investigate them;
- amend sections 487.7 and 488.7 to remove outdated references to the State Commission on Quality of Care for the Mentally Disabled with references to the Justice Center;
- amend sections 487.7 and 488.7 to add a requirement addressing when reports must be provided to the Justice Center, and requiring such reports to conform to the requirements of the Justice Center;
- amend sections 487.9 and 488.9 to add a requirement for staff training in the identification of reportable incidents and facility reporting procedures, and to add a requirement for certain facilities regarding the provision of a code of conduct to employees, volunteers, and others providing services at the facility who could be expected to have resident contact;
- amend sections 487.9 and 488.9 to add a requirement that certain facilities consult the Justice Center's staff exclusion list with regard to prospective employees, volunteers, and others, and that when such person is not on the staff exclusion list, that such facilities also consult the State Central Registry, with regard to such persons. The facility must maintain documentation of such consultation. The amendments also address the hiring consequences associated with the outcome of those consultations;
- amend sections 487.9 and 488.9 to specifically include investigation of reportable incidents to the administrative obligations of facilities, and to the duties of a case manager;
- amend sections 487.9 and 488.9 to require the operator of a facility to designate an additional employee to be a designated reporter;
- amend sections 487.10 and 488.10 to add a new requirement that certain facilities provide certain information to the Justice Center, and make certain information public, at the request of the Justice Center, and to allow sharing of information between the Department and the Justice Center;
- add new sections 487.14 and 488.13 to address reporting of certain incidents; and
- add new sections 487.15 and 488.14 to address the investigation of reportable incidents involving facilities subject to the Justice Center.

Text of proposed rule and any required statements and analyses may be obtained from: Katherine Ceroalo, DOH, Bureau of House Counsel, Reg. Affairs Unit, Room 2438, ESP Tower Building, Albany, NY 12237, (518) 473-7488, email: regsqna@health.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

Summary of Regulatory Impact Statement

The Department believes that the proposed regulatory amendments enhance the health and safety of those served by adult homes and enriched housing programs.

Adult homes and enriched housing programs subject to the Justice Center will be required to consult the Justice Center's register of substantiated category one cases of abuse or neglect as established pursuant to section 495 of the Social Services Law prior to hiring certain employee. Where the prospective employee is not on that list, the facility will also be required to check the Office of Children and Family Services' Statewide Central Registry of Child Abuse and Maltreatment. The facility will not be able to hire a person on the Justice Center's list, but would have the discretion to hire a person who was only on Office of Children and Family Services' list.

Reporting and investigation obligations for all facilities would be expanded to cover "reportable incidents," which are slightly more inclusive than what is covered by current reporting and investigation obligations. The amendments also add specific provisions to address reporting and investigation procedures, to require the posting the telephone number of the Justice Center's reporting hotline, and to require the case manager to be capable of reporting and investigating incidents. Those amendments should not require any significant change in current practice or impose anything beyond nominal additional expense to facilities.

Requirements imposed on facilities generally are limited to an obligation to train staff in the identification and reporting of reportable incidents. With regard to facilities subject to the Justice Center, that obligation, as well as the others imposed by the regulations, are required by virtue of Chapter 501 of the Laws of 2012.

The costs imposed by these regulatory amendments are expected to be minimal. In many cases, particularly with regard to the investigation requirements, the amendments generally reflect existing practice, and should neither impose any significant new costs, nor require any significant change in practice.

Regulatory Flexibility Analysis

Effect on Small Businesses and Local Governments:

This rule imposes some new obligations and administrative costs on regulated parties (adult homes and enriched housing programs). Some of the changes to Sections 487 and 488 apply to all adult home and enriched housing facilities; other only apply to those adult homes and enriched housing facilities which fall under the purview of the Justice Center. None of the requirements imposed by the amendments would impose different, or unique, burdens on small businesses or local governments; the requirements apply equally statewide. The costs and obligations associated with the amendments are fully described in the "Costs to Regulated Parties" section of the Regulatory Impact Statement.

Most of the five-hundred thirty (530) certified adult care facilities in New York State, including the twenty-seven (27) which fall under the purview of the Justice Center, are operated by small businesses as defined in Section 102 of the State Administrative Procedure Act. Those entities would be subject to all of the above additional requirements.

Three (3) facilities are operated by local governments, of which, none fall within the scope of the Justice Department required reporting facilities. Accordingly, the only additional cost imposed on those three (3) homes would be those nominal costs associated with obligations applicable to all adult homes and enriched housing facilities, as described in the "Costs to Regulated Parties" and "Paperwork" sections of the Regulatory Impact Statement.

Compliance Requirements:

As the facilities operated by local governments are not among those within the purview of the Justice Center for the Protection of Persons with Special Needs (Justice Center), the only impact upon facilities operated by local governments will be those resulting from obligations applicable to all adult homes and enriched housing facilities, as described in the "Costs to Regulated Parties" and "Paperwork" sections of the Regulatory Impact Statement.

The three (3) affected facilities run by local governments will experience minimal additional regulatory burdens in complying with the amendment's requirements, as functions related to Justice Center activities will not cause a need for additional staff or equipment.

Those facilities which constitute small businesses would be subject to additional requirements, as they include facilities both subject to, and not subject to, the purview of the Justice Center. The scope of the impact upon any given facility depends on whether it falls within the Justice Center's purview. Such obligations and impacts are fully described in the "Costs to Regulated Parties" and "Paperwork" sections of the Regulatory Impact Statement. The amendments are not expected to create a need for any additional staff or equipment for those facilities.

The Department expects that regulated parties will be able to comply with these regulations as of their effective date on December 10, 2015.

Professional Services:

No need for additional professional services is anticipated. Existing professional staff are expected to be able to assume any increase in workload resulting from the additional requirements.

Compliance Costs:

This rule imposes limited new administrative costs on regulated parties (adult homes and enriched housing programs), as described in the "Costs to Regulated Parties" and "Paperwork" sections of the Regulatory Impact Statement. The changes to Sections 487 and 488 add additional administrative responsibilities for those adult home and enriched housing facilities within the Justice Center's jurisdiction. None of the requirements imposed by the amendments would impose different, or unique, burdens on small businesses or local governments; the requirements apply equally statewide.

Economic and Technological Feasibility:

The proposed regulation would present no economic or technological difficulties to any small businesses and local governments affected by this amendment. The infrastructure for contacting the Justice Center, and establishing an Incident Review Committee, are already in place.

Minimizing Adverse Impact:

Department efforts to consider minimizing the impact of the amendments, and its consideration of alternatives to the amendments, are discussed in the "Alternatives" section of the Regulatory Impact Statement.

These amendments will not have an adverse impact on the ability of small businesses or local governments to comply with Department require-

ments, as full compliance would require minimal enhancements to present hiring and follow-up practices.

Consideration was given to including a cure period to afford adult home and enriched housing programs an opportunity to correct violations associated with this rule; however, this option was rejected because it is believed that lessening the Department's ability to enforce the regulations for violations could expose this already vulnerable population to greater risk to their health and safety.

Small Business and Local Government Participation:

The Department will notify all New York State certified ACFs by a Dear Administrator Letter (DAL) informing them of this Justice Center expansion of the protection of vulnerable people. Regulated parties that are small businesses and local governments are expected to be prepared to participate in required Justice Center activities on the effective date of this amendment because the staff and infrastructure needed for performance of these are already in place.

Rural Area Flexibility Analysis

Types and Estimated Number of Rural Areas:

This rule applies uniformly throughout the state, including rural areas. Of the twenty-seven (27) current facilities that will fall under the purview of the Justice Center for the Protection of People with Special Needs (Justice Center), two (2) are located in rural counties, as follows: Genesee County and Rensselaer County. Of the 530 adult homes and enriched housing programs statewide, including those not under the purview of the Justice Center, 160 are in rural areas.

Reporting and Recordkeeping and Other Compliance Requirements:

Reporting and Recordkeeping:

Reporting, recordkeeping and other compliance requirements are addressed in the "Costs to Regulated Parties" and "Paperwork" sections of the Regulatory Impact Statement. None of the requirements imposed by the amendments would impose different, or unique, burdens on rural areas; the requirements apply equally statewide.

Other Compliance Requirements:

Compliance requirements are discussed in the "Costs to Regulated Parties" and "Paperwork" sections of the Regulatory Impact Statement. None of the requirements imposed by the amendments would impose different, or unique, burdens on rural areas; the requirements apply equally statewide.

Professional Services:

There are no additional professional services required to comply with the proposed amendments.

Compliance Costs:

Cost to Regulated Parties:

Compliance requirements and associated costs are discussed in the "Costs to Regulated Parties" and "Paperwork" sections of the Regulatory Impact Statement. None of the requirements imposed by the amendments would impose different, or unique, burdens on rural areas; the requirements apply equally statewide.

Economic and Technological Feasibility:

There are no changes requiring the use of technology. The proposal is believed to be economically feasible for impacted parties. The amendments impose additional reporting and investigation requirements that will use existing staff that already have similar job responsibilities. There are no requirements that that involve capital improvements.

Minimizing Adverse Economic Impact on Rural Areas:

Department efforts to consider minimizing the impact of the amendments, and its consideration of alternatives to the amendments, are discussed in the "Alternatives" section of the Regulatory Impact Statement.

Rural Area Participation:

Of the twenty-seven (27) current facilities that will fall under the purview of the Justice Center, two (2) are located in rural counties, as follows: Genesee County and Rensselaer County. The Department will notify all New York State-certified adult care facilities (ACFs) by a Dear Administrator Letter (DAL) informing them of this expansion of requirements to protect people with special needs. Regulated parties in rural areas are expected to be able to participate in requirements of the Justice Center on the effective date of this amendment.

Job Impact Statement

No Job Impact Statement is required pursuant to Section 201-a (2)(a) of the State Administrative Procedure Act. It is apparent, from the nature of the proposed amendment that it will have no impact on jobs and employment opportunities, because it does not result in an increase or decrease in current staffing level requirements. Tasks associated with reporting new incidents types, reporting to the Justice Center for the Protection of People with Special Needs (Justice Center), as opposed to the Commission on the Quality of Care and Advocacy for People with Disabilities, making public certain information as directed by the Justice Center and assisting with the investigation of new reportable incidents are expected to be completed by existing facility staff. Similarly, the need for a medical examination of the patient in the course of investigating reportable incidents is similarly not appreciably different from the current practice of obtaining such examination under such circumstances. Accordingly, the amendments should not have any appreciable effect on employment as compared to current requirements.

Division of Housing and Community Renewal

NOTICE OF ADOPTION

Give PHAs Greater Discretion in Establishing Standards for Admission and Continued Occupancy in State-Aided Housing Projects

I.D. No. HCR-29-15-00002-A
Filing No. 858
Filing Date: 2015-10-02
Effective Date: 2015-10-21

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Repeal of section 1627-7.2; and addition of new section 1627-7.2 to Title 9 NYCRR.

Statutory authority: Public Housing Law, sections 14(1) and 19

Subject: Give PHAs greater discretion in establishing standards for admission and continued occupancy in State-aided housing projects.

Purpose: To eliminate outmoded standards of eligibility for State-aided public housing projects.

Text or summary was published in the July 22, 2015 issue of the Register, I.D. No. HCR-29-15-00002-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Mark Colon, Division of Housing and Community Renewal, 25 Beaver Street - 6 Floor, New York, New York 10004, (212) 480-6727, email: Mark.Colon@nyshcr.org

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2018, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

All the comments that we received strongly supported the Division's proposed repeal of Section 1627-7.2 and the addition of a new Section 1627-7.2 that will eliminate outmoded standards of eligibility for State-aided public housing projects.

Department of Labor

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Fast Food Minimum Wage

I.D. No. LAB-42-15-00003-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of section 146-1.2; and addition of section 146-3.13 to Title 12 NYCRR.

Statutory authority: Labor Law, sections 21(11), 652 and 656

Subject: Fast Food Minimum Wage.

Purpose: To implement changes to the wages for food service workers and service employees in the hospitality industry.

Text of proposed rule: Section 146-1.2 of 12 NYCRR Part 146 is amended as follows:

§ 146-1.2 Basic minimum hourly rate

(a) The basic minimum hourly rate*, except for fast food employees,* shall be:

([a]*1*) $ 7.25 per hour on and after January 1, 2011;

([b]*2*) $ 8.00 per hour on and after December 31, 2013;

([c]*3*) $ 8.75 per hour on and after December 31, 2014;

([d]*4*) $ 9.00 per hour on and after December 31, 2015[; or, if greater, such other wage as may be established by federal law pursuant to 29 U.S.C. section 206 or any successor provisions].

(b) The basic minimum hourly rate for fast food employees employed in the City of New York shall be:

(1) $10.50 per hour on and after December 31, 2015;

(2) $12.00 per hour on and after December 31, 2016;

(3) $13.50 per hour on and after December 31, 2017;

(4) $15.00 per hour on and after December 31, 2018.

(c) The basic minimum hourly rate for fast food employees employed outside of the City of New York shall be:

(1) $9.75 per hour on and after December 31, 2015;

(2) $10.75 per hour on and after December 31, 2016;

(3) $11.75 per hour on and after December 31, 2017;

(4) $12.75 per hour on and after December 31, 2018;

(5) $13.75 per hour on and after December 31, 2019;

(6) $14.50 per hour on and after December 31, 2020;

(7) $15.00 per hour on and after July 1, 2021.

(d) If a higher wage is established by federal law pursuant to 29 U.S.C. section 206 or any successor provisions, such wage shall apply.

A new section 146-3.13 of 12 NYCRR Part 146 is added to read as follows:

§ 146-3.13 Fast Food Employee

(a) "Fast Food Employee'' shall mean any person employed or permitted to work at or for a Fast Food Establishment by any employer where such person's job duties include at least one of the following: customer service, cooking, food or drink preparation, delivery, security, stocking supplies or equipment, cleaning, or routine maintenance.

(b) "Fast Food Establishment" shall mean any establishment in the state of New York: (a) which has as its primary purpose serving food or drink items; (b) where patrons order or select items and pay before eating and such items may be consumed on the premises, taken out, or delivered to the customer's location; (c) which offers limited service; (d) which is part of a chain; and (e) which is one of thirty (30) or more establishments nationally, including: (i) an integrated enterprise which owns or operates thirty (30) or more such establishments in the aggregate nationally; or (ii) an establishment operated pursuant to a Franchise where the Franchisor and the Franchisee(s) of such Franchisor owns or operates thirty (30) or more such establishments in the aggregate nationally. "Fast Food Establishment" shall include such establishments located within non-Fast Food Establishments.

(c) "Chain" shall mean a set of establishments which share a common brand, or which are characterized by standardized options for décor, marketing, packaging, products, and services.

(d) "Franchisee" shall mean a person or entity to whom a franchise is granted.

(e) "Franchisor" shall mean a person or entity who grants a franchise to another person or entity.

(f) "Franchise" shall have the same definition as set forth in General Business Law Section 681.

(g) "Integrated enterprise" shall mean two or more entities sufficiently integrated so as to be considered a single employer as determined by application of the following factors: (i) degree of interrelation between the operations of multiple entities; (ii) degree to which the entities share common management; (iii) centralized control of labor relations; and (iv) degree of common ownership or financial control.

Text of proposed rule and any required statements and analyses may be obtained from: Michael Paglialonga, Department of Labor, Building 12, State Office Campus, Room 509, Albany, NY 12240, (518) 457-4380, email: FastFood@labor.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

This rule was not under consideration at the time this agency submitted its Regulatory Agenda for publication in the Register.

Regulatory Impact Statement

1. Statutory Authority: The statutory authority for the promulgation of this rule is based on the Commissioner's general rulemaking authority under Labor Law § 21(11) and the specific statutory directives at Labor Law §§ 653-656 to appoint a wage board and take action on the wage board's recommendations.

2. Legislative Objectives: This rulemaking is the final step in implementing public policy objectives that the legislature sought to advance by enacting a statutory scheme that empowers the Commissioner to administratively order minimum wage rates by occupation that are higher than the statutory minimum wage, to promulgate regulations to carry out the purposes of Article 19 of the Labor Law ("Minimum Wage Law"), and safeguard minimum wages. In enacting the Minimum Wage Law, the Legislature found that employment of workers "at wages that are insufficient to provide adequate maintenance for themselves and their families … threatens the health and well-being of the people of this state and injures the overall economy" and that "it is the declared policy of the state of New York that such conditions be eliminated as rapidly as practicable without substantially curtailing opportunities for employment or earning power." Labor Law § 650.

Pursuant to the above-referenced objectives and Labor Law §§ 653-656, the Commissioner appointed a wage board comprised of representatives of employers, employees, and the public to investigate, hold public hearings around the state, and report back with recommendations in accordance with Labor Law § 655. The wage board met eight times between May 20, 2015 and July 27, 2015, including four public hearings around the state at which 225 people testified and approximately 1,700 written submissions, including petitions with over 160,000 signatures, were received. Each of these eight meetings was publicized in advance, open to the public, videotaped, and transmitted as a webcast. The notices, webcasts, and other materials, including the Commissioner's initial charge to the wage board, are posted on the Department of Labor's website at: http://labor.ny.gov/fastfoodwageboard.

Upon receipt and filing of the wage board's report and recommendations, the Commissioner gave public notice of, and solicited public comment on, the wage board's report and recommendations. The Commissioner received approximately 17,500 comments and timely issued an order, dated September 10, 2015, accepting the recommendations of the wage board in accordance with Labor Law § 656. The wage board's report and recommendation and the Commissioner's order are also posted on the Department's website at the address identified above, and notices of the report and order were published in newspapers across the State. The wage board's recommendations to establish a $15.00 per hour minimum wage were overwhelmingly supported by the public comments received by the wage board and the Commissioner.

For the reasons set forth above, this rulemaking, which increases the minimum wage for fast food workers to $15.00 per hour, accords with the public policy objectives that the legislature sought to advance in enacting the Minimum Wage Law and Labor Law §§ 653-656.

3. Needs and Benefits: The purpose of the rule is to codify the minimum wage increases and accompanying regulations that were ordered by the Commissioner on September 10, 2015, to effectuate the legislative objectives identified above by ensuring an adequate and sufficient minimum wage for fast food workers. The Commissioner convened the wage board upon his finding that: 60% of fast food workers in New York are in families enrolled in at least one public assistance program; nationally, fast food workers are twice as likely as all other workers to be in families that receive public assistance; in New York, 75% of fast food workers earn wages at the lowest level reported in employment statistics surveys; and nationally, 46% of fast food jobs provide between 20 and 35 work hours per week and 87% of fast food workers do not receive health benefits. The wage board found, among other things, that the current minimum wage applicable to fast food workers was insufficient in relation to the cost of living and that a wage of $15.91 per hour is the amount sufficient to provide adequate maintenance and to protect the health of fast food employees. The findings cited above are contained in the Commissioner's Opening Statement and Charge to the 2015 Fast Food Wage Board, dated May 20, 2015, and the Report of the Fast Food Wage Board to the NYS Commissioner of Labor, filed July 31, 2015, available online at http://labor.ny.gov/fastfoodwageboard.

4. Costs: (a) The costs to regulated parties – Fast Food Establishments – to increase the minimum wage for fast food workers can be offset by savings and modest price increases with no reduction in employment or profits. The proposed rule would phase in those increases annually on December 31, starting with increases of $1.50 in New York City and $0.75 in the rest of the state, as compared with the statutory minimum wage rate of $9.00 in effect on December 31, 2015. Respectively, those increases represent 16.6% and 8.3% of the $9.00 statutory rate and 4.2% and 2.1% of total revenues for fast food employers whose labor costs are 25% of revenues. In subsequent years, the annual increases of $1.50 in New York City and $1.00 in the rest of the state would be 4.2% and 2.8% of revenues respectively. By 2021, when the proposed $15.00 per hour rate is in effect statewide, the total increases, including payroll taxes, will amount to less than 12% of revenues in New York's fast food industry and such increases "could be absorbed through a combination of savings related to reduced turnover, sales and productivity in line with trend growth rates, and modest price increases," according to an analysis prepared for the wage board by Fiscal Policy Institute. A 3% price increase, by the group's estimate, would require no reduction in employment or profits.

(b) The costs to the Department, the State, and local governments for implementation and continuation of the rule will be de minimis. The Department currently works with employers and employees on outreach and enforcement for the current wage order for the fast food industry, and the proposed rulemaking is not expected to increase the costs for such outreach and enforcement. According to the Fiscal Policy Institute's analysis, for every $1.00 of wage increase received by minimum wage workers, there would be $0.43 in public assistance savings and increased income and payroll taxes at all levels of government, which would translate to an estimated fiscal benefit of $700 million to government as a result of the proposed rule.

(c) The sources for such information and the methodology include the June 26, 2015, submission to the wage board from the Fiscal Policy Institute, available online at http://fiscalpolicy.org/wp-content/uploads/2015/08/Parrott-June-26-2015-letter-to-Wage-Board.pdf, and the wage board's report and the numerous studies and sources cited therein, available online at http://labor.ny.gov/fastfoodwageboard.

5. Local Government Mandate: None. Federal, state, and municipal governments and political subdivisions thereof are excluded from coverage under Part 146 by Labor Law §§ 651(5)(n) and 651(5) (last paragraph).

6. Paperwork: None.

7. Duplication: This rule exceeds the federal minimum wage requirements but follows the requirements set by the New York State Legislature and the recommendations of the wage board.

8. Alternatives: These amendments are required by law; thus, there are no alternatives to amending these regulations.

9. Federal Standards: This rule implements the minimum wage and requirements set forth in New York law that exceeds the federal minimum wage. There are no other federal standards relating to this rule.

10. Compliance Schedule: The regulated community will be required to comply with this regulation on and after December 31, 2015, and the wage increase to $15.00 per hour is scheduled to be implemented over the next three years in New York City, and the next six years in the rest of the State.

Regulatory Flexibility Analysis

1. Effect of Rule: No small businesses or local governments are expected to be affected by the changes in this rulemaking. These regulations apply to chain fast food establishments with at least thirty locations nationally.

2. Compliance Requirements: There are no changes in the reporting or record-keeping requirements regarding the minimum wage. Fast Food Establishments must review their payrolls in light of the new statutory minimum wage rates to determine whether they will need to increase the amount that they pay their workers.

3. Professional Services: No professional services would be required to effectuate the purposes of this rule.

4. Compliance Costs: These rules do not impose any additional compliance costs separate and apart from the costs imposed under the current rule. Such compliance costs do not exceed the cost of reviewing and increasing the pay rate to $15.00 per hour for fast food employees currently making less than that amount.

5. Economic and Technological Feasibility: Compliance with these regulations will be economically and technologically feasible because these regulations simply adjust the existing minimum wage rate applicable to fast food workers, without imposing new, or altering existing, requirements or procedures for complying with minimum wage requirements.

6. Minimizing Adverse Impact: This rulemaking is the result of the recommendations of a wage board which received extensive testimony and comments from the regulated community. Through that process, it was found that a wage increase to $15.00 per hour could be absorbed through cost reductions associated with reduced turnover, increases in sales and productivity, and a small price increase. To help minimize the adverse impact, the wage board recommended, and this rulemaking implements, increases over a period of time. The phase-in period will be three years in New York City, where faster sales growth provides for a greater ability to absorb such costs, and six years outside of New York City.

7. Small Business and Local Government Participation: Opportunities to participate in the development of this rulemaking were provided through two stages of notice and comment. At the first stage, a wage board met eight times between May 20, 2015, and July 27, 2015, including four public hearings around the state at which 225 people testified and over 2000 written submissions were received. Each of these eight meetings was publicized in advance, open to the public, videotaped, and subsequently transmitted as a webcast. At the second stage, upon receipt and filing of the wage board's report and recommendations, the Commissioner gave public notice of, and solicited public comment on, the wage board's report and recommendations. A large volume of comments were received, reviewed, and evaluated by the Commissioner prior to the adoption of the recommendations of the wage board and this rulemaking.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas: These rules apply to all chain fast food establishments with at least thirty locations nationally and have locations throughout all areas of the State.

2. Reporting, recordkeeping and other compliance requirements: There are no changes in the reporting or record-keeping requirements regarding the minimum wage. Fast food establishments will have to review their payrolls in light of the new statutory minimum wage rates and the proposed wage orders to determine whether they will need to increase the amount that they pay to their workers.

3. Professional services: No professional services will be required to comply with this rule.

4. Costs: These rules do not impose any additional compliance costs separate and apart from the costs that exist under the current rule. Such compliance costs do not exceed the cost of reviewing and increasing the pay rate to $15.00 per hour for fast food employees currently making less than that amount.

5. Minimizing adverse impact: This rulemaking is the result of the recommendations of a wage board which received extensive testimony and comments from the regulated community. Through that process, it was found that a wage increase to $15.00 per hour could be absorbed through cost reductions associated with reduced turnover, increases in sales and productivity, and a small price increase. To help minimize the adverse impact, the wage board recommended, and this rulemaking implements, increases over a period of time. The phase-in period will be three years in New York City, where faster sales growth provides for a greater ability to absorb such costs, and six years outside of New York City.

6. Rural area participation: Opportunities to participate in the development of this rulemaking were provided through two stages of notice and comment. At the first stage, the wage board met eight times between May 20, 2015 and July 27, 2015, including four public hearings around the state at which 225 people testified and over 2000 written submissions were received. Each of these eight meetings was publicized in advance, open to the public, videotaped, and subsequently transmitted as a webcast. At the second stage, upon receipt and filing of the wage board's report and recommendations, the Commissioner gave public notice of, and solicited public comment on, the wage board's report and recommendations. A large volume of comments were received, reviewed, and evaluated by the Commissioner prior to the adoption of the recommendations of the wage board prior to this rulemaking.

Job Impact Statement

1. Nature of impact: This rulemaking increases the State minimum wage rate for fast food employees, limited to chain fast food establishments operating at least thirty locations nationally, to conform to the September 10, 2015, order of the Commissioner upon the report of the fast food wage board. In doing so, it is not expected to have a substantial impact on jobs or on employment opportunities.

The impact of this rulemaking should be positive for fast food workers through incremental minimum increases of $1.50 or less per hour over the next three and six years, to $15.00 per hour, without negatively impacting jobs, employers, or the fast food industry. It is anticipated that the phased-in implementation, savings related to reduced turnover, and sales and productivity growth, along with a small price increase, will alleviate any negative impact on jobs.

While there are many studies that examine the impact of minimum wage increases on jobs, the various findings are inconsistent and inconclusive; some studies suggest a decrease in employment and others an increase. The United States Department of Labor has stated that minimum wage increases have little to no negative effect on employment as shown in independent studies from economists across the country. www.dol.gov/minwage/mythbuster.htm.

2. Categories and numbers affected: These regulations apply only to chain fast food establishments with at least thirty locations nationally. Overall in New York State, the fast food industry employs between 164,000 and 200,000 workers in 15,000 to 20,000 locations. The ten largest fast food chains represent approximately 65 percent of all fast food locations, and an illustrative list of 137 fast food chains in the State was annexed to the report of the wage board to provide context for the scope of the number of establishments, and their employees, affected. In New York State, fewer workers in food-related occupations in these industries work full-time compared to workers in all industries. In New York State, 71.5% of fast food workers are 22 years old or older.

3. Regions of adverse impact: These regulations will not have a disproportionate impact upon any area of the State.

4. Minimizing adverse impact: The phased-in annual minimum wage increases can be absorbed through savings related to reduced turnover and sales and productivity growth, along with a small (3%) price increase. The phased-in annual minimum wage increases would require no reduction in employment or profits, according to estimates by the Fiscal Policy Institute provided to the wage board, which identified New York State as particularly well-positioned to be able to accommodate a higher minimum wage. While employers and their representatives who testified before the wage board raised concerns that a wage increase could result in layoffs, reductions in hours, and significant price increases, the wage board found that

the economic benefits of an increase in the minimum wage to $15.00 per hour significantly outweigh the costs. Along with the finding that such costs will be minimized due to other benefits of the wage increase, to alleviate such concerns, the wage board recommended, and this rulemaking implements, increases over a period of time. The phased-in period will be three years in New York City, where faster sales growth provides for a greater ability to absorb such costs, and six years outside of New York City. Fast food establishments can further minimize any negative impact on jobs resulting from the limited increases in labor costs that result from this rulemaking by increasing sales, efficiencies, or prices, by decreasing costs, or by any combination thereof.

Department of Law

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Digital Submission Requirements for Cooperative Interests in Realty

I.D. No. LAW-42-15-00015-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of Parts 18, 20, 21, 22, 23, 24 and 25 of Title 13 NYCRR.

Statutory authority: General Business Law, section 352-e(2-b)

Subject: Digital Submission Requirements for Cooperative Interests in Realty.

Purpose: To streamline the Department of Law's regulations and internal operations while also reducing transaction costs and paper waste.

Substance of proposed rule (Full text is posted at the following State website:www.ag.ny.gov/pdfs/ref/TextReg.pdf): Pursuant to its authority under New York General Business Law Section 352-e(2-b), the Department of Law proposes to revise Parts 18, 20, 21, 22, 23, 24, and 25 of Title 13 of the Official Compilation of Codes, Rules, and Regulations of the State of New York. In brief, the Department of Law's proposed regulations would require sponsors of cooperative interests in realty to submit to the Department of Law fewer paper copies of their offering plans and the amendments and exhibits thereto. Instead, sponsors must submit a digital copy of those documents.

The proposed regulations define a digital copy as: ". . . a copy that is identical in content to a paper copy except that it is recorded electronically in read-only.pdf format or other electronic format that the Department of Law determines to be acceptable. Digital copies of the plan shall include all the supporting documents included in Part II of the plan. Digital copies of the exhibits to the plan shall include all documents referenced in section [18.2(c)(4), 20.2(c)(5), 21.2(c)(3), 22.2(c)(6), 23.2(c)(5), 24.2(c)(4), or 25.2(c)(5)], as applicable. Digital copies of the amendment shall include all exhibits, back-up documents, and other supplemental documents annexed to the amendment, as applicable."

Under the proposed regulations, sponsors will need to submit one paper copy and one digital copy of their offering plans as well as each subsequent amendment thereto. The proposed regulations will also require sponsors, when submitting an amendment to the Department of Law, to include "[o]ne digital copy of the offering plan including all previously filed amendments, if not already submitted to the Department of Law." Similarly, the proposed regulations mandate that the attorney transmittal letter for amendments state "the date on which sponsor submitted a digital copy of the offering plan and all previously filed amendments to the Department of Law or whether this is the first time sponsor is submitting a digital copy of the offering plan and previously filed amendments, if any."

The proposed regulations also alter the procedure by which sponsors submit exhibits to offering plans. The revisions require "One paper copy of all original exhibits to the offering plan and one digital copy of all exhibits to the offering plan."

Finally, in order to ensure that the Department of Law's submission requirements are consistent throughout Title 13, the proposed regulations amend and add several other related sections to Title 13. These revisions, which are most evident in the proposed additions to Part 21, streamline the Department of Law's regulations and ensure sponsor compliance with General Business Law Section 352-(e)(7)(a).

A complete version of the Department of Law's proposed revisions is available on the Department of Law's website. Additionally, further clarification regarding the proposed regulations will be set forth in a Department of Law Guidance Document pursuant to the State Administrative Procedure Act Section 102(14). Such Guidance Document will be available on the Department of Law's website, as required by State Administrative Procedure Act Section 202(e).

Text of proposed rule and any required statements and analyses may be obtained from: Jacqueline Dischell, Department of Law, 120 Broadway, 23rd Floor, New York, NY 10271, (212) 416-8655, email: jackie.dischell@ag.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement

1. Statutory Authority. New York General Business Law Article 23-A ("the Martin Act") regulates the advertisement, sale, purchase, and investment advice given to securities and other covered investment vehicles. See NYS CLS GBL § 352(1). Included under the Martin Act's purview is the regulation of real estate syndication offerings, including the offering of "cooperative interests in realty," which must be sold pursuant to an offering plan filed with the Real Estate Finance Bureau of the New York State Law Department. See NYS CLS GBL § 352-e(1)(a). New York General Business Law ("GBL") Section 352-e(2-b) authorizes the Attorney General to "adopt, promulgate, amend and rescind suitable rules and regulations" to carry out the provisions of GBL Section 352-e.

2. Legislative Objectives. The Martin Act demonstrates a clear intent to provide prospective purchasers with adequate information upon which to base their investment decisions. To illustrate, GBL Section 352-e(1) mandates that before any person may engage in a public offering of cooperative interests in realty, including condominiums, he or she must file with the Department of Law ("DoL") an offering plan that contains "the detailed terms of the transaction" and "such additional information…as will afford potential investors, purchasers and participants and adequate basis upon which to found their judgment." See also GBL Section 352-e(5). The Martin Act authorizes the DoL to develop and implement its own procedures with respect to the filing of this information regarding cooperative interests in realty. Under GBL Section 352-e(6), the Attorney General is "authorized and empowered to adopt promulgate, amend, and rescind suitable rules and regulations for the method, contents and filing procedures with respect to the statements required by subdivision one and the making of amendments."

Pursuant to this authority, the DoL's regulations mandate the procedures by which sponsors of cooperative interests in realty must submit to the DoL their offering plans and the subsequent amendments thereto. These regulations require a sponsor, "upon preliminary advice from the Department of Law that the proposed offering plan may be filed," to provide the DoL with three or four "copies of the typed or printed, bound offering plan." See 13 NYCRR §§ 18.2(d)(2); 19.2(d)(2); 20.2(d)(2); 22.2(d)(2); 24.2(d)(2); 25.2(d)(2). The regulations also require sponsors to submit to the DoL "three copies of the amendment to the offering plan." See 13 NYCRR §§ 18.5(b)(2); 19.5(b)(2); 20.5(b)(2); 21.5(b)(2); 22.5(b)(2); 24.5(b)(2); 25.5(b)(2).

In light of new technologies, as described below, the DoL's current regulations no longer represent the most effective means for the Agency to solicit, file, and store offering plans and amendments. Therefore, in accordance with its authority under the Martin Act, the DoL proposes to amend its regulations to increase its efficacy and efficiency while simultaneously reducing paper waste. The proposed revisions will also allow the DoL to better effectuate the investor protection provisions of the Martin Act by increasing the ease with which prospective purchasers and the public can access relevant information upon which "to found their judgment." See GBL Section 352-e(1).

3. Needs and Benefits. As described above, current DoL regulations require sponsors to submit to the DoL three or four paper copies of their offering plan and three paper copies of each subsequent amendment. This creates an incredibly high volume of documents for the DoL to process and store as well as considerable paper waste. The current regulations contain no provisions for digital submission of offering plans or the amendments thereto. When the DoL promulgated its regulations in 1989, the above procedures represented the most logical means for the Agency to solicit, file, and store information about cooperative interests in realty. However, technological advancements over the past twenty-six years have greatly changed how information is distributed, accessed, and stored. In light of the widespread access to, ownership of, and knowledge of computers and other digital devices, the DoL proposes to amend its regulations to require sponsors to submit to the DoL fewer paper copies of their offering plans and amendments, and instead submit a digital copy. The DoL expects that the use of digital copies will increase the efficiency of the DoL, which will, in turn, benefit prospective purchasers, sponsors, and the environment.

An offering plan is typically a voluminous bound document containing several hundred pages or more. In 2014, the DoL accepted for filing 402 offering plans (three or four copies of each) and 3648 amendments (three copies of each). The DoL must file and store this high volume of documents, which is costly to the Agency. The proposed revisions will help to ameliorate this problem. Digital submission of offering plans and amendments will create fewer physical documents necessitating processing and storing, thereby reducing the associated costs.

In addition, no central repository for offering plans and amendments exists. As a result, it can be difficult for prospective purchasers, other members of the public, and even the DoL to access older information, particularly because many of these files are maintained off-site in upstate New York. The DoL is currently developing an agency-wide e-filing and case management system, one benefit of which will be the creation of a thorough digital catalogue of New York State's offering plans and amendments. However, this system will not take effect for several years. In the meantime, the proposed revisions act as an important interim step towards creating a permanent comprehensive digital storage framework: because less physical storage space is required for digitized documents, information can be retained and accessed for longer periods of time without being cost prohibitive to the Agency.

The proposed revisions will expedite public information requests under New York's Freedom of Information Law ("FOIL"). At present, those making a FOIL request for offering plans and/or amendments generally must make an appointment to visit the DoL's offices to review and make photocopies of the requested information. In 2014, the DoL received 1,216 FOIL requests for 1,888 offering plans. Processing this high number of requests is quite time consuming, both for the public and the DoL. The proposed revisions will allow the DoL to distribute much of this information digitally, thus hastening the FOIL process as well as benefiting the environment by drastically reducing the amount of photocopies the public must make.

Similarly, the DoL issued Cooperative Policy Statement #10 ("CPS-10") in October 2011 to permit sponsors to distribute digital copies of their final offering plans and/or amendments to perspective purchasers (if both parties so elect). The goal of CPS-10 was to "reduce transaction costs and aid Offerors, Offerees, and their counsel in their review of Plans and/or Amendments." However, the use of CPS-10 has been rather limited to date: for example, in 2014, only 16 of the offering plans submitted to the DoL participated in CPS-10. Under the proposed revisions, sponsors are required to create digital copies of their final offering plans and/or amendments; the DoL expects that this will lead to an increase in the number of sponsors participating in CPS-10's digital distribution framework, which will further increase the public's ease of access to information about offering plans and amendments.

In addition to increasing the efficiency of the DoL and the ability of the public to access information stored by the Agency, the proposed revisions will have the benefit of reducing the cost to sponsors of reproducing numerous paper copies of offering plans (as described below) and the impact of such reproduction on the environment. For all of these reasons, the DoL believes that amending its regulations to require the digital submission of offering plans amendments is fully warranted.

4. Costs.

(a) Costs to regulated parties. The proposed revisions may impose nominal costs to the regulated parties as a result of the implementation and continued compliance with the rule. Under the proposed revisions, sponsors will be required to submit to the DoL fewer paper copies of their offering plans and amendments than is currently required, instead submitting a digital copy. The DoL expects the costs, if any, associated with creating and submitting a digital copy of the offering plan to be nominal due to the widespread access to, ownership of, and knowledge of computers and other digital devices. The DoL believes that any potential nominal costs to regulated parties are outweighed by the aforedescribed benefits of the proposed revisions.

However, the proposed revisions will likely reduce costs for sponsors: estimates from several print shops, as well as the DoL's Administrative Services Bureau, demonstrate that the cost of creating a digital copy of offering plan and amendments is less than producing numerous bound paper copies. To illustrate, the cost of printing and binding a black and white 500-page (250 double-sided pages) offering plan is between $50 and $70, while the cost of a USB drive or CD-ROM is usually less than $20. The cost of a digital copy as compared to numerous paper copies is further reduced when factoring in the shipping costs associated with paper copies.

(b) Costs to the agency, the state and local governments. The DoL will incur certain administrative costs as a result of the proposed revision. The DoL currently has no digital submission framework in place, and therefore will incur costs related to the implementation of this system. However, the Department of Law's information technology specialists estimate that that these costs will be reasonable and within the Real Estate Finance Bureau's Special Fund budget. See NY State Fin L § 80 (2012). The DoL believes that these costs are necessary to effectuate the proposed revisions, and are outweighed by their utility. Moreover, the DoL expects that the proposed revisions will result in a long-term reduction of costs for the Agency, because, as described above, digitized offering plans and amendments will lead to decreased transaction costs associated with filing and storing paper copies of offering plans and amendments. The DoL foresees no costs to any other state agencies or local governments.

(c) Information and methodology upon which the estimate is based. The estimated costs to regulated parties, the agency, and state and local governments is based on the assessment of the Attorney General, in reliance upon data and information available to him maintained by the DoL's Real Estate Finance Bureau.

5. Local Government Mandates. The proposed revisions do not impose any programs, services, duties, or responsibilities on any county, city, town, village, school district, fire district, or other special district.

6. Paperwork. The proposed revisions reduce the amount of physical paperwork for both regulated parties and the Department of Law. As described above, the proposed revisions will require sponsors to submit to the DoL fewer physical copies of their offering plans and amendments than is currently required, instead submitting a digital copy. The result will be less physical paperwork for sponsors to produce and for the DoL to file and store.

7. Duplication. The proposed revisions will not duplicate any existing state or federal rule.

8. Alternatives. The DoL believes that there are no significant alternatives to the proposed revisions, and has concluded that the proposed revisions are the most effective means of increasing the efficiency and efficacy of the DoL, allowing the public to more readily access information about cooperative interests in realty, and reducing the Agency's environmental footprint.

9. Federal Standards. The proposed revisions do not exceed any minimum standards of the federal government for the same or similar subject.

10. Compliance Schedule. The proposed revisions will go into effect on January 1, 2016. The proposed revisions will apply to any and all future offering plans submitted to the Department of Law. The proposed revisions will also affect offering plans that the DoL has accepted for submission, but has not yet not accepted for filing.

Regulatory Flexibility Analysis

1. Effect of rule. The proposed regulatory revisions will have the effect of increasing the efficiency and efficacy of the Department of Law ("DoL"), which will, in turn, benefit prospective purchasers, sponsors of cooperative interests in realty, and the environment. The proposed revisions do not affect any local governments.

The proposed revisions may affect certain small businesses: specifically, sponsors of cooperative interests in realty. However, the majority of offering plans submitted to the DoL are sponsored by single-purpose limited liability companies that are directly affiliated with larger entities. The State Administrative Procedure Act ("SAPA") Section 102(8) defines a defines a small business as, "[a]ny business which is resident in this state, independently owned and operated and that employs 100 or less people." Accordingly, the DoL believes that very few small businesses, as defined by SAPA Section 102(8), will be affected by the proposed revisions.

Under the proposed revisions, sponsors will be required to submit to the DoL fewer paper copies of their offering plans and amendments than is required by current regulations, and instead, submit a digital copy. The DoL expects the cost (if any) and effort associated with providing digitized documents to be nominal due to the widespread access to, ownership of, and knowledge of computers and other digital devices. In fact, as described below, the proposed revisions will likely result in a net reduction of costs for sponsors.

2. Compliance requirements. The proposed revisions do not affect local governments; thus, they do not require local governments to undertake any new reporting or recordkeeping procedures.

As mentioned above, the proposed revisions will require sponsors of cooperative interests in realty to submit to the DoL fewer paper copies of their offering plans and amendments than is currently required, and instead, submit a digital copy. The DoL does not expect compliance with this requirement to be onerous to sponsors due to the widespread access to, ownership of, and knowledge of computers and other digital devices.

3. Professional services. The proposed revisions do not affect local governments; therefore, local governments will not need to employ any professional services in order to comply with the proposed revisions.

The proposed revisions will require sponsors of cooperative interests in realty to incur certain professional costs associated with the preparation of a digital version of their offering plan, such as legal fees. However, in all cases, the sponsor would have already been employing these legal services in the preparation of their offering plan, and, as described above, the cost and effort associated with creating a digital version of the offering plan is expected to be nominal. In fact, the proposed revisions will likely

reduce costs for sponsors: estimates from several print shops, as well as the DoL's Administrative Services Bureau, demonstrate that the cost of creating a digital copy of offering plans and amendments is less than printing numerous bound paper copies. To illustrate, the cost of printing and binding a black and white 500-page (250 double-sided pages) offering plan is between $50 and $70, while the cost of a USB drive or CD-ROM is usually less than $20. The cost of a digital copy as compared to numerous paper copies is further reduced when factoring in the shipping costs associated with paper copies.

4. Compliance costs. The proposed revisions do not affect local governments; therefore, the DoL foresees no initial capital costs nor any additional annual costs to local governments as a result of compliance with the proposed revisions.

The DoL also foresees no initial capital costs nor any additional annual costs to regulated small businesses as a result of compliance with the proposed revisions, other than the aforementioned potential nominal costs associated with the creation of a digital copy of the offering plan and amendments. Additionally, the DoL believes that any potential costs to regulated parties are outweighed by the benefits of the proposed revisions. These costs will not vary depending on the type and/or size of the regulated business.

5. Economic and technological feasibility. Compliance with the proposed revisions is both technologically and economically feasible for local governments, as the proposed revisions do affect them in any way.

The proposed revisions are also technologically and economically feasible for regulated small businesses. While the proposed revisions do impose a technological requirement upon sponsors of cooperative interests in realty (submitting to the DoL a digital copy of their offering plan and amendments), the DoL does not expect this requirement to be onerous to them due to the widespread access to, ownership of, and knowledge of computers and other digital devices. In addition, the costs associated with this technological requirement are, as detailed above, expected to be nominal or nonexistent. Indeed, the proposed revisions will likely result in a net savings to sponsors, because, as described above, the cost of producing a digital copy is expected to be less than producing numerous bound paper copies.

6. Minimizing adverse impact. The proposed revisions do not affect local governments, and therefore have no adverse economic impact on them.

The adverse economic impact on regulated small businesses will be minimal or nonexistent. Other than the potential fees associated with creating a digital copy of the offering plan and amendments—and, as mentioned above, there will likely be a net reduction in costs—the proposed revisions have no adverse economic impact on sponsors.

The DoL has considered various approaches fashioning the proposed regulatory revisions, including those set forth in SAPA Section 202-b(1). Nevertheless, the DoL has concluded that the proposed revisions are the most effective means of increasing the efficiency and efficacy of the DoL, allowing the public to more readily access information about cooperative interests in realty, and reducing the Agency's environmental footprint.

7. Federal standards. The proposed revisions do not exceed any minimum standards of the federal government for the same or similar subject.

8. Small business and local government participation. To ensure that small businesses and local governments have an opportunity to participate in the rule making process as required by SAPA Section 202-b(6), a copy of the proposed revisions will be sent to members of the Bar who represent offerors and purchasers of condominiums. Copies will also be posted on the DoL's website.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas. The proposed regulatory revisions apply uniformly throughout the state, including all rural areas. Executive Law, Article 19-F Rural Affairs Act, Section 481(7) defines a rural area as a county with a population of less than 200,000. New York currently has 44 rural areas. However, the vast majority of the offering plans submitted to the Department of Law ("DoL") are for properties in New York City and its suburbs. Accordingly, the impact of the proposed regulatory revisions on both rural condominium offerors and rural condominium purchasers is likely to be very minimal. In any case, the proposed regulatory revisions will not affect rural areas more than any other area in the state.

2. Reporting, recordkeeping, and other compliance requirements; and professional services. The proposed regulatory revisions do not require new obligations for local governments in terms of reporting or recordkeeping in rural areas.

Under the proposed regulations, sponsors of cooperative interests in realty in rural areas will be required to submit to the DoL fewer paper copies of their offering plans and amendments than is required by current regulations, and instead, submit a digital copy. The DoL does not expect compliance with this requirement to be onerous to sponsors due to the widespread access to, ownership of, and knowledge of computers and other digital devices.

3. Costs. The DoL foresees no initial capital costs nor any additional annual costs to rural public entities as a result of compliance with the proposed regulatory revisions.

The DoL also foresees no initial capital costs to rural businesses as a result of compliance with the proposed regulatory revisions. In terms of annual costs to regulated rural businesses, sponsors of cooperative of condominium offerings operating in rural areas will incur the costs associated with preparing and submitting to the DoL a digital copy of their offering plan and amendments. This cost is expected to be nominal due to the widespread access to, ownership of, and knowledge of computers and other digital devices. In fact, the proposed revisions will likely reduce costs for sponsors: estimates from several print shops, as well as the DoL's Administrative Services Bureau, demonstrate that the cost of creating a digital copy of offering plans and amendments is less than printing numerous bound paper copies. To illustrate, the cost of printing and binding a black and white 500-page (250 double-sided pages) offering plan is between $50 and $70, while the cost of a USB drive or CD-ROM is usually less than $20. The cost of a digital copy as compared to numerous paper copies is further reduced when factoring in the shipping costs associated with paper copies. These costs will not vary depending on the type and/or size of the regulated business.

4. Minimizing adverse impact. The proposed regulatory revisions do not affect local governments in rural areas, and therefore will have no adverse economic impact on them.

The adverse economic impact on regulated rural businesses will be minimal or nonexistent. Other than the potential fees associated with creating a digital copy of the offering plan and amendments—and, as mentioned above, there will likely be a net reduction in costs—the proposed revisions have no adverse economic impact on the very few sponsors operating in rural areas.

The DoL has considered various approaches fashioning the proposed regulatory revisions, including those set forth in State Administrative Procedure Act ("SAPA") Section 202-b(1). Nevertheless, the DoL has concluded that the proposed regulatory revisions are the most effective means of increasing the efficiency and efficacy of the DoL, allowing the public to more readily access information about cooperative interests in realty, and reducing the Agency's environmental footprint.

5. Rural area participation. To ensure that persons and entities in rural areas have an opportunity to participate in the rule making process as required in SAPA Section 202-bb(7), a copy of the proposed regulatory revisions will be sent to members of the Bar who represent offerors and purchasers of condominiums. Copies of the proposed regulatory revisions will also be posted on the DoL's website.

Office for People with Developmental Disabilities

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Article 16 Clinic Services and Independent Practitioner Services for Individuals with Intellectual Disabilities (IPSIDD)

I.D. No. PDD-42-15-00002-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of Part 679; and addition of Subpart 635-13 to Title 14 NYCRR.

Statutory authority: Mental Hygiene Law, sections 13.07, 13.09(b) and 16.00

Subject: Article 16 Clinic Services and Independent Practitioner Services for Individuals with Intellectual Disabilities (IPSIDD).

Purpose: To discontinue off-site Article 16 clinic services and to add requirements for IPSIDD.

Substance of proposed rule (Full text is posted at the following State website:www.opwdd.ny.gov): The proposed regulations amend requirements in 14 NYCRR Part 679 pertaining to Article 16 clinic services, and add a new 14 NYCRR Subpart 635-13 to identify new requirements pertaining to a new Medicaid State plan service, Independent Practitioner Services for Individuals with Developmental Disabilities (IPSIDD).

The proposed regulations eliminate provision of previously allowed off-site delivery of OPWDD certified Article 16 clinic services to

individuals with developmental disabilities effective January 1, 2016. The off-site locations included OPWDD certified residential and day programs and other, non-certified, sites in the community.

The proposed regulations specify that, effective January 1, 2016, Article 16 clinic services must only be delivered at sites that are specifically certified to provide those services. The regulations clarify requirements pertaining to satellite sites where on-site clinic services may be provided. The regulations clarify that the satellite sites can occupy dedicated or designated spaces and can be co-located with another OPWDD certified or funded non-residential program or services under certain conditions.

The proposed regulations also include requirements pertaining to the provision of IPSIDD on and after January 1, 2016. IPSIDD services are limited to physical, occupational, and speech therapy; social work; and psychology services that may be provided to individuals in service arrangements subject to prior authorization from OPWDD. The regulations identify requirements on applicability and service definition; eligibility and enrollment of individuals; qualifications for independent practitioners to provide the service; and general provisions for service delivery.

Lastly, the proposed regulations include amendments to update the name of OPWDD (from OMRDD) and to update the definition of developmental disability in accordance with the updated definition in Mental Hygiene Law section 1.03. The proposed regulations also include corrections to a number of cross references and minor grammar and punctuation edits.

Text of proposed rule and any required statements and analyses may be obtained from: Regulatory Affairs Unit, Office for People with Developmental Disabilities (OPWDD), 44 Holland Avenue, 3rd floor, Albany, NY 12229, (518) 474-7700, email: RAU.unit@opwdd.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

Additional matter required by statute: Pursuant to the requirements of the State Environmental Quality Review Act, OPWDD, as lead agency, has determined that the action described herein will have no effect on the environment and an E.I.S. is not needed.

Regulatory Impact Statement

1. Statutory Authority:

a. OPWDD has the statutory responsibility to provide and encourage the provision of appropriate programs, supports, and services in the areas of care, treatment, habilitation, rehabilitation, and other education and training of persons with developmental disabilities, as stated in the New York State (NYS) Mental Hygiene Law Section 13.07.

b. OPWDD has the authority to adopt rules and regulations necessary and proper to implement any matter under its jurisdiction as stated in the NYS Mental Hygiene Law Section 13.09(b).

c. OPWDD has the statutory authority to adopt regulations concerning the operation of programs and the provision of services, as stated in the NYS Mental Hygiene Law Section 16.00.

2. Legislative Objectives: The proposed regulations further the legislative objectives embodied in sections 13.07, 13.09(b), and 16.00 of the Mental Hygiene Law. The proposed regulations make changes to Article 16 clinic services, by eliminating provision of "off-site" clinic services effective January 1, 2016, in accordance with a mandate from CMS; clarifying requirements pertaining to satellite sites where on-site clinic services may be provided; and adding requirements pertaining to Independent Practitioner Services for Individuals with Developmental Disabilities (IPSIDD), a new State plan service.

3. Needs and Benefits: In an effort to align OPWDD's service delivery system with CMS requirements, OPWDD is eliminating provision of previously allowed off-site delivery of OPWDD certified Article 16 clinic services to individuals with developmental disabilities. The off-site locations included OPWDD certified residential and day programs and other, non-certified, sites in the community. CMS has mandated that, effective January 1, 2016, the Article 16 clinic services must only be delivered at sites that are specifically certified to provide those services.

The proposed regulations clarify requirements pertaining to Article 16 clinic satellite sites where on-site clinic services may be provided.The regulations clarify that the satellite sites can occupy dedicated or designated spaces and can be co-located with another OPWDD certified or funded non-residential program or services under certain conditions.

The proposed regulations also include requirements pertaining to a new State plan service, Independent Practitioner Services for Individuals with Developmental Disabilities (IPSIDD) that may be provided to individuals with developmental disabilities, including those who previously received off-site Article 16 clinic services. The services are limited to physical, occupational, and speech therapy; social work; and psychology services that may be provided to individuals in service arrangements subject to prior authorization from OPWDD.

OPWDD expects that increased use of Article 16 clinic satellite sites and introduction of IPSIDD will offset the loss of off-site Article 16 clinic services.

The proposed regulations also include amendments to update the name of OPWDD (from OMRDD) and to update the definition of developmental disability in accordance with the updated definition in Mental Hygiene Law section 1.03. The proposed regulations also include corrections to a number of cross references and minor grammar and punctuation edits.

4. Costs:

a. Costs to the Agency and to the State and its local governments: OPWDD cannot estimate how much these regulations will cost the State in its role of Medicaid payor, or in its role of Medicaid provider. Although Medicaid funding streams will change in accordance with CMS mandates (i.e., Article 16 clinics will receive funding only for services provided in sites that are specifically certified to provide those services), OPWDD expects that individuals will be provided with the same clinical services through other OPWDD funded services (i.e., IPSIDD) and/or in other service environments (i.e., certified Article 16 clinic satellite sites). If all the current off-site clinic services are delivered in clinic satellite sites, the regulation will not increase or decrease overall spending. If some or all off-site clinic services are replaced by IPSIDD services, there will be an increase or decrease in State costs, depending on whether the IPSIDD fees are higher or lower than the current off-site clinic fees. However, OPWDD cannot quantify potential savings or spending increases because OPWDD cannot predict the extent to which IPSIDD will replace off-site clinic services.

The proposed regulations will have no effect on local governments. Even if the proposed regulations lead to an increase in Medicaid expenditures in a particular county, they will not have any fiscal impact on local governments, as the contribution of local governments to Medicaid has been capped. Chapter 58 of the Laws of 2005 places a cap on the local share of Medicaid costs and local governments are already paying for Medicaid at the capped level.

b. Costs to private regulated parties: Non-state operated Article 16 clinic providers may incur some loss of revenue associated with the elimination of off-site services, effective January 1, 2016. However, OPWDD has been informed that many Article 16 clinic service providers plan to establish additional clinic satellite sites to provide services that had previously been provided at off-site locations. (Services provided at satellite sites will be reimbursed at the same level as the off-site services.) There may also be some initial costs associated with establishing these new satellite sites, but OPWDD has been informed that most providers plan to apportion existing space used for other services as dedicated or designated satellite site space. In addition, clinicians (including clinicians employed by Article 16 clinic providers) may form separate group practices that will enable them to provide IPSIDD in certain residential and day services environments where off-site clinic services were provided before January 1, 2016.

OPWDD cannot quantify future potential savings or costs. However, the increased number of conveniently located Article 16 clinic satellite sites and availability of IPSIDD will provide individuals who are eligible for the services with new options to obtain the clinical services they need.

5. Local Government Mandates: There are no new requirements imposed by the rule on any county, city, town, village; or school, fire, or other special district.

6. Paperwork: The proposed regulations will result in some minor additional paperwork for service coordination staff and other providers to disenroll individuals from off-site Article 16 clinic services and obtain or enroll the individuals in other clinical service options. The regulations are not expected to have any long term effect on paperwork responsibilities.

7. Duplication: The proposed regulations do not duplicate any existing State or Federal requirements that are applicable to these services.

8. Alternatives: OPWDD considered not regulating IPSIDD, but determined that regulations, particularly requirements for establishment of ISPIDD clinician qualifications, are in the best interests of individuals receiving services.

9. Federal Standards: The proposed amendments do not exceed any minimum standards of the federal government for the same or similar subject areas.

10. Compliance Schedule: OPWDD plans to permanently adopt the proposed reglations effective January 1, 2016. OPWDD conducted comprehensive statewide provider training provider on clinic services changes during July 2015 and September 2015. Additional training sessions are planned during September 2015 and guidance will be posted on the OPWDD to assist providers to come into compliance with the regulations effective on January 1, 2016.

Regulatory Flexibility Analysis

1. Effect of Rule: OPWDD has determined, through a review of the certified cost reports, that most OPWDD-funded services are provided by non-profit agencies that employ more than 100 people overall. However, some smaller agencies that employ fewer than 100 employees overall would be classified as small businesses. Currently, there are approximately

59 providers of Article 16 clinic services that may be affected by these regulations. OPWDD is unable to estimate the portion of these agencies that may be considered to be small businesses.

The proposed regulations have been reviewed by OPWDD in light of their impact on small businesses. The proposed regulations make changes to Article 16 clinic services, by eliminating provision of "off-site" clinic services effective January 1, 2016, in accordance with a mandate from CMS; clarifying requirements pertaining to satellite sites where on-site clinic services may be provided; and adding requirements pertaining to Independent Practitioner Services for Individuals with Developmental Disabilities (IPSIDD), a new State plan service.

2. Compliance Requirements: The proposed regulations will impose new compliance requirements on Article 16 clinic providers. OPWDD is eliminating provision of previously allowed off-site delivery of OPWDD certified Article 16 clinic services to individuals with developmental disabilities. The off-site locations included OPWDD certified residential and day programs and other, non-certified, sites in the community. CMS has mandated that, effective January 1, 2016, the Article 16 clinic services must only be delivered at sites that are specifically certified to provide those services. However, OPWDD understands that many Article 16 clinic service providers plan to establish clinic satellite sites to provide services that had previously been provided at off-site locations and, therefore, will have to comply with requirements applicable to operation of satellite sites. Clinicians, including those working for Article 16 clinic providers, may also form separate group practices that will enable them to provide IPSIDD in certain residential and day services environments where off-site clinic services were provided before January 1, 2016. These clinicians will be required to meet new IPSIDD participation requirements.

The amendments will have no effect on local governments.

3. Professional Services: OPWDD expects that there will be no significant change in professional services required as a result of these amendments. Although Medicaid funding streams will change in accordance with CMS mandates (i.e., Article 16 clinics will receive funding only for services provided in sites that are specifically certified to provide those services), OPWDD expects that individuals will be provided with the same clinical services through other OPWDD funded services (i.e., IPSIDD) and/or in other service environments (i.e., certified Article 16 clinic satellite sites). Therefore, OPWDD expects that the same relative number of clinicians will be providing the services in the new service delivery arrangements.

4. Compliance Costs: Non-state operated Article 16 clinic providers may incur some loss of revenue associated with the elimination of off-site services, effective January 1, 2016. However, OPWDD understands that many Article 16 clinic service providers plan to establish additional clinic satellite sites to provide services that had previously been provided at off-site locations. (Services provided at satellite sites will be reimbursed at the same level as the off-site services.) There may also be some initial costs associated with establishing these new satellite sites, but OPWDD has been informed that most providers plan to apportion existing space used for other services as dedicated or designated satellite site space. In addition, clinicians working for Article 16 clinic providers may form separate group practices that will enable them to provide IPSIDD in certain residential and day services environments where off-site clinic services were provided before January 1, 2016.

OPWDD cannot quantify future potential savings or costs. However, the increased number of conveniently located Article 16 clinic satellite sites and availability of IPSIDD will provide individuals who are eligible for the services with new options to obtain the clinical services they need.

5. Economic and Technological Feasibility: The proposed regulations do not impose the use of any new technological processes on regulated parties.

6. Minimizing Adverse Impact: The purpose of these proposed regulations is to eliminate off-site Article 16 clinic services in accordance with CMS mandates and to enable providers of Article 16 clinic services to make alternative clinical service arrangements available to individuals with developmental disabilities. As noted above, OPWDD cannot quantify future potential savings or costs. However, the increased number of conveniently located Article 16 clinic satellite sites and availability of IPSIDD will provide individuals who are eligible for the services with new options to obtain the clinical services they need.

OPWDD has reviewed and considered the approaches for minimizing adverse economic impact as suggested in section 202-b(1) of the State Administrative Procedure Act (SAPA). However, since the regulations are needed to conform OPWDD's service delivery system with CMS requirements and to honor commitments made to CMS, OPWDD did not establish different compliance, reporting requirements or timetables on small business providers or local governments or exempt small business providers or local governments from these requirements and timetables.

7. Small Business and Local Government Participation: Providers, including providers that have fewer than 100 employees, were notified of the changes to Article 16 clinic services during comprehensive statewide provider trainings conducted in July 2015 and September 2015. Guidance will be posted on the OPWDD to assist providers, including small business providers, to come into compliance with the regulations effective on January 1, 2016.

Rural Area Flexibility Analysis

1. Types and Estimated Numbers of Rural Areas: OPWDD services are provided in every county in New York State. 44 counties have a population of less than 200,000: Allegany, Cattaraugus, Cayuga, Chautauqua, Chemung, Chenango, Clinton, Columbia, Cortland, Delaware, Essex, Franklin, Fulton, Genesee, Greene, Hamilton, Herkimer, Jefferson, Lewis, Livingston, Madison, Montgomery, Ontario, Orleans, Oswego, Otsego, Putnam, Rensselaer, St. Lawrence, Saratoga, Schenectady, Schoharie, Schuyler, Seneca, Steuben, Sullivan, Tioga, Tompkins, Ulster, Warren, Washington, Wayne, Wyoming and Yates. 9 counties with certain townships have a population density of 150 persons or less per square mile: Albany, Broome, Dutchess, Erie, Monroe, Niagara, Oneida, Onondaga and Orange.

The proposed amendments have been reviewed by OPWDD in light of their impact on entities in rural areas. The proposed regulations make changes to Article 16 clinic services, by eliminating provision of "off-site" clinic services effective January 1, 2016, in accordance with a mandate from CMS; clarifying requirements pertaining to satellite sites where on-site clinic services may be provided; and adding requirements pertaining to Independent Practitioner Services for Individuals with Developmental Disabilities (IPSIDD), a new State plan service.

2. Compliance Requirements: The proposed regulations will impose new compliance requirements on Article 16 clinic providers. OPWDD is eliminating provision of previously allowed off-site delivery of OPWDD certified Article 16 clinic services to individuals with developmental disabilities. The off-site locations included OPWDD certified residential and day programs and other, non-certified, sites in the community. CMS has mandated that, effective January 1, 2016, the Article 16 clinic services must only be delivered at sites that are specifically certified to provide those services. However, OPWDD understands that many Article 16 clinic service providers plan to establish clinic satellite sites to provide services that had previously been provided at off-site locations and, therefore, will have to comply with requirements applicable to operation of satellite sites. Clinicians, including those employed by Article 16 clinic providers, may also form separate group practices that will enable them to provide IPSIDD in certain residential and day services environments where off-site clinic services were provided before January 1, 2016. These clinicians will be required to meet new IPSIDD participation requirements.

The amendments will have no effect on local governments.

3. Professional Services: OPWDD expects that there will be no significant change in professional services required as a result of these amendments. Although Medicaid funding streams will change in accordance with CMS mandates (i.e., Article 16 clinics will receive funding only for services provided in sites that are specifically certified to provide those services), OPWDD expects that individuals will be provided with the same clinical services through other OPWDD funded services (i.e., IPSIDD) and/or in other service environments (i.e., certified Article 16 clinic satellite sites). Therefore, OPWDD expects that the same relative number of clinicians will be providing the services in the new service delivery arrangements.

4. Costs: Non-state operated Article 16 clinic providers may incur some loss of revenue associated with the elimination of off-site services, effective January 1, 2016. However, OPWDD understands that many Article 16 clinic service providers plan to establish additional clinic satellite sites to provide services that had previously been provided at off-site locations. (Services provided at satellite sites will be reimbursed at the same level as the off-site services.) There may also be some initial costs associated with establishing these new satellite sites, but OPWDD understands that most providers plan to apportion existing space used for other services as dedicated or designated satellite site space. In addition, clinicians, including those working for Article 16 clinic providers, may form separate group practices that will enable them to provide IPSIDD in certain residential and day services environments where off-site clinic services were provided before January 1, 2016.

OPWDD cannot quantify future potential savings or costs. However, the increased number of conveniently located Article 16 clinic satellite sites and availability of IPSIDD will provide individuals who are eligible for the services with new options to obtain the clinical services they need.

5. Minimizing Adverse Impact: The purpose of these proposed regulations is to eliminate off-site Article 16 clinic services in accordance with CMS mandates and to enable providers of Article 16 clinic services to make alternative clinical service arrangements available to individuals with developmental disabilities. As noted above, OPWDD cannot quantify future potential savings or costs. However, the increased number of conveniently located Article 16 clinic satellite sites and availability of

IPSIDD will provide individuals who are eligible for the services with new options to obtain the clinical services they need.

OPWDD has reviewed and considered the approaches for minimizing adverse economic impact as suggested in section 202-b(1) of the State Administrative Procedure Act (SAPA). However, since the regulations are needed to conform OPWDD's service delivery system with CMS requirements and to honor commitments made to CMS, OPWDD did not establish different compliance, reporting requirements or timetables on rural area providers or exempt rural area providers from these requirements and timetables.

6. Small Business and Local Government Participation: Providers, including rural area providers, were notified of the changes to Article 16 clinic services during comprehensive statewide provider trainings conducted in July 2015 and September 2015. Guidance will be posted on the OPWDD to assist providers, including rural area providers, to come into compliance with the regulations effective on January 1, 2016.

Job Impact Statement

OPWDD is not submitting a Job Impact Statement for this proposed rulemaking because this rulemaking will not have a substantial adverse impact on jobs or employment opportunities.

The proposed regulations make changes to Article 16 clinic services, by eliminating provision of "off-site" clinic services effective January 1, 2016, in accordance with a mandate from CMS; clarifying requirements pertaining to satellite sites where on-site clinic services may be provided; and adding requirements pertaining to Independent Practitioner Services for Individuals with Developmental Disabilities (IPSIDD), a new State plan service.

OPWDD expects that there will be no significant change in jobs for clinicians (or other staff) required as a result of these amendments. Although Medicaid funding streams will change in accordance with CMS mandates (i.e., Article 16 clinics will receive funding only for services provided in sites that are specifically certified to provide those services), OPWDD expects that individuals will be provided with the same clinical services through other OPWDD funded services (i.e., IPSIDD) and/or in other service environments (i.e., certified Article 16 clinic satellite sites). Therefore, OPWDD expects that the same relative number of clinicians will be providing the services in the new service delivery arrangements.

Consequently, these proposed regulations will not have a substantial adverse impact on jobs or employment opportunities.

Power Authority of the State of New York

PROPOSED RULE MAKING HEARING(S) SCHEDULED

Rates for the Sale of Power and Energy

I.D. No. PAS-42-15-00005-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Increase in Production Rates.

Statutory authority: Public Authorities Law, section 1005, 3rd undesignated paragraph and 1005(6)

Subject: Rates for the Sale of Power and Energy.

Purpose: To align rates and costs.

Public hearing(s) will be held at: 11:00 a.m., Nov. 24, 2015 at Power Authority of the State of New York, 123 Main Street, White Plains, NY.

Interpreter Service: Interpreter services will be made available to hearing impaired persons, at no charge, upon written request submitted within reasonable time prior to the scheduled public hearing. The written request must be addressed to the agency representative designated in the paragraph below.

Accessibility: All public hearings have been scheduled at places reasonably accessible to persons with a mobility impairment.

Substance of proposed rule: The Power Authority of the State of New York (the "Authority") proposes to increase the production rates for its Westchester County Governmental Customers. The Authority provides electricity to 103 customers in Westchester County, including the County of Westchester, school districts, housing authorities, cities, towns and villages. Under the proposal, the 2016 production costs will increase by 10.64% when compared with the 2015 costs. The increase, which is based on a pro forma Cost-of-Service for 2016, is largely due to expected increases in energy and capacity prices for electricity purchased from the New York Independent System Operator market to serve these customers. The new production rates will become effective with the March 2016 billing period.

Text of proposed rule and any required statements and analyses may be obtained from: Karen Delince, Corporate Secretary, Power Authority of the State of New York, 123 Main Street, 11-P, White Plains, New York 10601, (914) 390-8085, email: secretarys.office@nypa.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Rates for the Sale of Power and Energy

I.D. No. PAS-42-15-00004-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Decrease in the Fixed Costs Component of the Production Rates.

Statutory authority: Public Authorities Law, section 1005, 3rd undesignated paragraph and 1005(6)

Subject: Rates for the Sale of Power and Energy.

Purpose: To recover the Authority's fixed costs.

Substance of proposed rule: The Power Authority of the State of New York (the "Authority") proposes to decrease the Fixed Costs component of the production rates for its New York City Governmental Customers. Under the proposal, the Authority will decrease the Fixed Costs component of the production rates by $3.8 million or 2.8% for 2016 rate year when compared with the 2015 fixed costs. This decrease is based on the Authority's Preliminary 2016 Cost-of-Service. The new production rates will become effective with the March 2016 billing period.

Text of proposed rule and any required statements and analyses may be obtained from: Karen Delince, Corporate Secretary, Power Authority of the State of New York, 123 Main Street, 11-P, White Plains, New York 10601, (914) 390-8085, email: secretarys.office@nypa.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

Public Employment Relations Board

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Rules of Procedure Governing Matters Before the Public Employment Relations Board Pursuant to Labor Law, Article 20

I.D. No. PRB-42-15-00014-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of Parts 250-258 of Title 12 NYCRR.

Statutory authority: State Employment Relations Act, Labor Law, art. 20, as amended by L. 2010, ch. 56, part O; L. 2013, ch.148

Subject: Rules of Procedure governing matters before the Public Employment Relations Board pursuant to Labor Law, art. 20.

Purpose: To conform procedure under SERA to the 2010 and 2013 statutory changes, and harmonize with PERB rules.

Substance of proposed rule (Full text is posted at the following State website:http://www.perb.ny.gov/): The following proposed amendments would align 12 NYCRR IV (A) (Part 250, et seq.) with the State Employment Relations Act ("SERA") (Labor Law Art. 20, as amended by L. 2010, ch. 56, Part O and L. 2013, ch.148). Due to the statutory changes to SERA, which abolished the State Employment Relations Board and transferred jurisdiction over cases arising under SERA to the Public Employment Relations Board ("PERB"), the rules codified at this Part, promulgated by the State Employment Relations Board, are no longer consistent with SERA.

L. 2010, ch. 56, § 11, directs PERB to "undertake a comprehensive review of all such regulations and opinions, which will address the consistency of such regulations and opinions among each other and will propose any regulatory changes necessitated by such review."

As a result of PERB's comprehensive review, these proposed amendments would conform the rules of procedure under SERA to the statutory changes enacted in 2010 and 2013, and harmonize the procedure before PERB under SERA with that in cases brought under the Public Employees Fair Employment Act (Civil Service Law, Art. 14, commonly known as the "Taylor Law"). For example, the 2013 statutory amendment relieved PERB of the duty to investigate and prosecute unlawful practice claims against employers under SERA, and thus preserved PERB's neutrality and its ability to mediate and resolve cases. The current rules codified at this Part assume PERB will fulfill an investigative and prosecutorial role, and accordingly do not comport with SERA. Additionally, the proposed rules seek to simplify procedure and reduce confusion.

The full text of the proposed amendment to this Part will be available on PERB's website during the public comment period.

Text of proposed rule and any required statements and analyses may be obtained from: John F. Wirenius, General Counsel/Deputy Chair, Public Employment Relations Board, P.O. Box 2074, Empire State Plaza, Agency Bldg. 2, 18th Fl. , Albany, New York 12220-0074, (518) 457-2578, email: perbinfo@perb.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement

1. Statutory Authority: The State Employment Relations Act ("SERA") (Labor Law Art. 20), was amended in 2010 (L. 2010, ch. 56, Part O), and subsequently in 2013 (L. 2013, ch.148), transferring jurisdiction over cases arising under SERA from the State Employment Relations Board (abolished by this legislation) to the Public Employment Relations Board ("PERB"), with further statutory changes not contemplated by, or simply inconsistent with, the rules codified at this Part, promulgated by the State Employment Relations Board. The Legislature addressed the obsolescence of some or all of the rules codified at this Part in two ways.

Civil Service Law § 205.5(m), as amended by L. 2010, ch. 56, Part O, § 1, provides that PERB shall have the power "[t]o administer the provisions of article twenty of the labor law to the extent provided for in such article, and to serve all the functions of the board as defined in section seven hundred one of the labor law, including to make, amend and rescind such rules and regulations as may be necessary to carry out the provisions of such article."

L. 2010, ch. 56, § 11, provides that: "The public employment relations board shall undertake a comprehensive review of all such regulations and opinions, which will address the consistency of such regulations and opinions among each other and will propose any regulatory changes necessitated by such review."

2. Legislative Objectives: The proposed rules fulfill the legislative policy, as set forth in L. 2010, ch. 56 § 11, that PERB review the regulations governing claims brought before it under SERA, and propose changes to such regulations necessitated by its review.

3. Needs and Benefits: The proposed rules harmonize procedure before PERB under SERA with those under Public Employees' Fair Employment Act (Civil Service Law, Article 14) (the "Taylor Law"), and conform the rules to the statutory changes made in amending the statute in 2010 and 2013.

4. Costs: The proposed rules are designed to be cost-neutral, in that the proposed rules of procedure in administrative proceedings before PERB would replace similar rules that pertained in similar proceedings under SERA.

A. The proposed rules impose no new fees, nor do they in any significant way increase the burden of practicing before PERB upon parties. Therefore, we believe that there are no costs to the regulated parties stemming from implementation of and/or continued compliance with the proposed rules.

B. By bringing the practice before PERB under SERA into harmony with that under the Taylor Law, PERB's existing practices will be standardized and consistent in all cases before it, resulting in efficiency and clarity. No costs of implementation or continuation of the rules is anticipated.

C. The estimate that the adoption of the proposed rules will not impose any costs upon litigants before PERB or upon PERB itself is based on the small number of cases generally brought under SERA in comparison to cases brought under the Taylor Law, and the fact that the proposed rules include no fees or charges, nor do they in any meaningful way complicate practice before PERB in any cases brought under SERA.

5. Local Government Mandates: None applicable.

6. Paperwork: None Applicable.

7. Duplication: None applicable. In fact, the harmonization of the rules applicable to cases under SERA with those applicable to cases under the Taylor Law will simplify practice before PERB, eliminating confusion for litigants before PERB, and avoiding duplication.

8. Alternatives: In view of the statutory changes to SERA, which brought PERB's functioning under that statute into harmony with its functions under the Taylor Law, potential alternatives, such as adopting procedural rules more akin to those applicable under the National Labor Relations Act ("NLRA"), were considered but deemed contraindicated.

9. Federal Standards: Not applicable.

10. Compliance Schedule: Upon enactment, and applicable to previously-filed cases with the Board on an ongoing basis.

Regulatory Flexibility Analysis

1. Effect of rule: The proposed amended rules ("Rules") replace, amend, and streamline the already extant rules of procedure by which claims under the State Employment Relations Act (Labor Law, Art. 20) ("SERA") will be heard and processed to either settlement or a decision on the merits of the dispute by the Public Employment Relations Board ("PERB").

The Rules therefore effect only employees and employers whose rights are governed by SERA—that is, those who are not: "(1) employees of any employer who concedes to and agrees with the board that such employees are subject to and protected by the provisions of the national labor relations act or the federal railway labor act; or (2) employees of the state or of any political or civil subdivision or other agency thereof" (SERA § 715).

2. Compliance requirements: The Rules do not impose reporting, recordkeeping, or other similar requirements on any entity.

3. Professional services: No professional services are mandated or necessary to comply with the Rules. While litigants covered by SERA frequently elect to be represented by counsel before PERB, such representation is not required by the Rules, nor is it made more necessary or advantageous than under the already extant rules of procedure which these Rules would amend or supersede.

4. Compliance costs: The Rules impose no additional burdens upon litigants or entities governed by SERA.

5. Economic and technological feasibility: No economic or technological mandates are contained within the Rules, except for the possibility that electronic filing of documents with PERB may be permitted at the discretion of PERB's Chairperson. Parties for whom such electronic filing would present a technological or economic hardship would be permitted to "opt out" should electronic filing be allowed.

6. Minimizing adverse impact: As discussed above, no adverse impact of the Rules is anticipated.

7. Small business and local government participation: Because of the technical nature of the projected amendments to the Rules, the lack of a community of practitioners who regularly bring SERA cases, and the small volume of SERA cases pending before PERB, it was deemed that the SAPA process represented the most efficacious and practical means of gaining input from small businesses and any local governments whose constituents might have views on the procedural changes.

Rural Area Flexibility Analysis

1. Types and estimated numbers of rural areas: The proposed amended rules ("Rules") apply state-wide, and do not distinguish between litigants before the Public Employment Relations Board ("PERB") under the State Employment Relations Act (Labor Law, Art. 20) ("SERA") based upon the nature of the locality in which a litigant is sited.

2. Reporting, recordkeeping and other compliance requirements; and professional services: The Rules do not impose reporting, recordkeeping, or other similar requirements on any entity. Nor are professional services mandated or necessary to comply with the Rules. Rather, the Rules replace, amend, and streamline the already extant rules of procedure by which claims under SERA are heard and processed to either settlement or a decision on the merits of the dispute by PERB.

3. Costs: The Rules do not impose any new fees or costs on the entities or parties subject to SERA.

4. Minimizing adverse impact: Not Applicable.

5. Rural area participation: These requirements are not applicable, pursuant to SAPA § 202-bb(7), because the rule does not impose an adverse impact on rural areas and PERB finds, as set forth above, that the Rules

would not impose reporting, recordkeeping or other compliance requirements on public or private entities in rural areas.

Job Impact Statement

1. Nature of impact: None. The proposed amended rules ("Rules") replace, amend, and streamline the already extant rules of procedure by which claims under the State Employment Relations Act (Labor Law, Art. 20) ("SERA") will be heard and processed to either settlement or a decision on the merits of the dispute by the Public Employment Relations Board ("PERB"). No additional burdens are added upon litigants or entities governed by SERA.
2. Categories and numbers affected: Not applicable.
3. Regions of adverse impact: Not applicable.
4. Minimizing adverse impact: Not applicable.
5. Self-employment opportunities: Not applicable.

Public Service Commission

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Deferral of Incremental Expenses Associated with NERC's New Bulk Electric System (BES) Compliance Requirements Approved by FERC

I.D. No. PSC-42-15-00006-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The PSC is considering a petition by Central Hudson Gas & Electric Corporation to approve the recovery of $1.1 million of deferred incremental costs associated with NERC's new Bulk Electric System (BES) compliance requirements approved by FERC.

Statutory authority: Public Service Law, sections 4(1), 65, 66(1) and (12)

Subject: Deferral of incremental expenses associated with NERC's new Bulk Electric System (BES) compliance requirements approved by FERC.

Purpose: Consideration of Central Hudson's request to defer incremental expenses associated with new BES compliance requirements.

Substance of proposed rule: Central Hudson Gas & Electric Corporation (Central Hudson or Company) has requested approval to recover, with carrying charges, $1.1 million in deferred incremental costs for the rate year ended June 30, 2015 associated with new compliance requirements resulting from North American Electric Reliability Corporation's changes to the definition of the Bulk Electric System as approved by the Federal Energy Regulatory Commission. The Company has deferred the incremental expense and associated deferred income taxes in Account 182. The Commission may adopt, reject or modify, in whole or in part, Central Hudson's request, and may also consider any related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/f96dir.htm. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(09-E-0588SP5)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Notice of Intent to Submeter Electricity

I.D. No. PSC-42-15-00007-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Public Service Commission is considering whether to grant, deny or modify, in whole or part, the Notice of Intent filed by Sandy Clarkson LLC, to submeter electricity at 310 Clarkson Avenue, Brooklyn, New York.

Statutory authority: Public Service Law, sections 2, 4(1), 30, 32-48, 52, 53, 65(1), 66(1), (2), (3), (4), (12) and (14)

Subject: Notice of Intent to submeter electricity.

Purpose: To consider the request of Sandy Clarkson LLC to submeter electricity at 310 Clarkson Avenue, Brooklyn, New York.

Substance of proposed rule: On September 18, 2015, Sandy Clarkson LLC submitted a Notice of Intent to submeter electricity at 310 Clarkson Avenue, Brooklyn, New York. The Public Service Commission is considering whether to approve, deny or modify, in whole or part, the request for authorization to submeter and to take other actions necessary to address the Notice of Intent.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/f96dir.htm. For questions, contact: Elaine Agresta, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2660, email: Elaine.Agresta@dps.ny.gov

Data, views or arguments may be submitted to: Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-E-0553SP1)

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Notice of Intent to Submeter Electricity

I.D. No. PSC-42-15-00008-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Public Service Commission is considering whether to grant, deny or modify, in whole or part, the Notice of Intent filed by 560 West 24th Street Condominium, to submeter electricity at 552 West 24th Street, New York, New York.

Statutory authority: Public Service Law, sections 2, 4(1), 30, 32-48, 52, 53, 65(1), 66(1), (2), (3), (4), (12) and (14)

Subject: Notice of Intent to submeter electricity.

Purpose: To consider the request of 560 West 24th Street Condominium to submeter electricity at 552 West 24th Street, New York, New York.

Substance of proposed rule: The Public Service Commission is considering whether to grant, deny or modify, in whole or part, the Notice of Intent filed by 560 West 24th Street Condominium, to submeter electricity at 552 West 24th Street, New York, New York, located in the territory of Consolidated Edison Company of New York, Inc., and to take other actions necessary to address the Notice of Intent.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/f96dir.htm. For questions, contact: Elaine Agresta, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2660, email: Elaine.Agresta@dps.ny.gov

Data, views or arguments may be submitted to: Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-E-0513SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Revised Method for Assigning Anniversary Dates to Net-Metered Residential PV Customers

I.D. No. PSC-42-15-00009-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Commission is considering a petition filed by Residential Net-Metered PV Customers and others requesting that a default anniversary date be established for net-metered residential PV customers.

Statutory authority: Public Service Law, sections 5(1)(b) and 66-j

Subject: Revised method for assigning anniversary dates to net-metered residential PV customers.

Purpose: To consider a revised method for assigning anniversary dates to net-metered residential PV customers.

Substance of proposed rule: The Public Service Commission is considering a petition filed by Residential Net-Metered PV Customers (Walter and Nan Simpson, Gordon and Diana Tracz, and Joan Bozer), CIR Electrical Construction Corp., Earthkind Energy, Empire Clean Energy Supply, Frey Electric Construction Company, NY-GEO, PUSH Buffalo, Renewable Rochester, Sierra Club Niagara Group, Solar Liberty Energy Systems, Inc., and Renewable Energy Task Force (WNY Peace Center) (collectively, the Petitioners) on September 17, 2015, requesting that the method for assigning residential net-metered PV customers be revised. The Petitioners propose a number of alternatives, including: (1) requiring that the most beneficial month, in terms of cash-out, be assigned as the default for new and existing residential PV projects; (2) permitting PV credits to accumulate without requiring an annual cash-out on the anniversary date or month; (3) engaging NYSERDA to educate PV installers and customers on how to choose the best anniversary date or month for their area; and (4) eliminating use of an anniversary date or month and require utilities to pay residential PV customers monthly for excess production at the retail rate. The Commission may adopt, reject, or modify, in whole or in part, the relief proposed herein and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/f96dir.htm. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-E-0572SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Petition for Modification of Con Edison's S.C. No. 4 (Back-Up/ Supplementary) Steam Service

I.D. No. PSC-42-15-00010-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Commission is considering the petition of The Real Estate Board of New York and the City of New York requesting modifications to Service Classification No. 4 of Consolidated Edison Company of New York, Inc.'s Schedule for Steam Service.

Statutory authority: Public Service Law, section 66

Subject: Petition for modification of Con Edison's S.C. No. 4 (Back-Up/ Supplementary) Steam Service.

Purpose: To consider modifications to S.C. No. 4 of Con Edison's Schedule for Steam Service.

Substance of proposed rule: The Public Service Commission is considering a Petition for Declaratory Ruling submitted by The Real Estate Board of New York (REBNY) and the City of New York (City). In the petition, REBNY and the City request modifications to Service Classification No. 4 (Back-up/Supplementary Service) of Consolidated Edison Company of New York, Inc.'s Schedule for Steam Service to facilitate distributed generation development. The Commission may grant, deny or modify, in whole or in part, REBNY and the City's petition, and may consider other related items.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/f96dir.htm. For questions, contact: Elaine Agresta, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2660, email: Elaine.Agresta@dps.ny.gov

Data, views or arguments may be submitted to: Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-S-0523SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Proposed Transfer of Ownership Interests in Cayuga Operating Company, LLC and Somerset Operating Company, LLC

I.D. No. PSC-42-15-00011-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Commission is considering a Petition seeking approval for the transfer of ownership interests in Cayuga Operating Company, LLC and Somerset Operating Company, LLC.

Statutory authority: Public Service Law, sections 2(13), 5(1)(b) and 70

Subject: Proposed transfer of ownership interests in Cayuga Operating Company, LLC and Somerset Operating Company, LLC.

Purpose: To consider proposed transfer of ownership interests in Cayuga Operating Company, LLC and Somerset Operating Company, LLC.

Substance of proposed rule: The New York State Public Service Commission is considering a Verified Joint Petition filed by Upstate New York Power Producers, Inc.; Cayuga Operating Company, LLC; Somerset Operating Company, LLC; and Riesling Power LLC under Section 70 of the Public Service Law for the transfer of 100% of Upstate New York Power Producers, Inc.'s ownership interests in Cayuga Operating Company, LLC, the owner of a 312 megawatt electric generating facility located in Lansing, New York, and Somerset Operating Company, LLC, the owner of a 668 megawatt electric generating facility located in Somerset, New York. The Petitioners request that the lightened regulatory regime currently operative for the subject electric generating facilities be continued without modification. The Commission may adopt, reject or modify, in whole or in part, the relief proposed and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/f96dir.htm. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-E-0580SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Establishment of the Regulatory Regime Applicable to a Proposed Natural Gas Pipeline Facility

I.D. No. PSC-42-15-00012-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The Commission is considering a petition filed by Greenidge Pipeline LLC and Greenidge Pipeline Properties Corp. for approval of incidental or lightened regulation in connection with its natural gas pipeline proposed in Yates County, New York.

Statutory authority: Public Service Law, sections 2(2-a), (13), 5(1)(b), 18-a, 19, 64-69, 69-a, 70, 71, 72, 72-a, 75, 105-114, 114-a, 115, 117, 118, 119-a, 119-b and 119-c

Subject: Establishment of the regulatory regime applicable to a proposed natural gas pipeline facility.

Purpose: Consideration of a lightened regulatory regime for a proposed natural gas pipeline facility.

Substance of proposed rule: The Public Service Commission (Commission) is considering a petition filed by Greenidge Pipeline LLC and Greenidge Pipeline Properties Corporation (collectively, the Petitioners) on September 24, 2015, requesting approval of incidental or lightened regulation in connection with Petitioner's operation of a proposed natural gas pipeline, to be located in the Towns of Torrey and Milo in Yates County, New York. The Petitioners request an order providing that the Petitioners will be subject to incidental regulation, or regulated under a lightened regulatory regime consistent with that imposed on the owners-operators of competitive wholesale generators. The Commission may adopt, reject, or modify, in whole or in part, the relief proposed, and may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/f96dir.htm. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-G-0571SP1)

PROPOSED RULE MAKING
NO HEARING(S) SCHEDULED

Annual Reconciliation of Gas Expenses and Gas Cost Recoveries

I.D. No. PSC-42-15-00013-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: The PSC is considering whether to approve, modify, or reject, in whole or part, the filings made by various local gas distribution companies (LDCs) and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.

Statutory authority: Public Service Law, section 66(12)

Subject: Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.

Purpose: The filings of various LDCs and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries.

Substance of proposed rule: The Commission is considering whether to approve, modify, or reject, in whole or in part, the filings made by various local gas distribution companies (LDCs) and municipalities regarding their Annual Reconciliation of Gas Expenses and Gas Cost Recoveries. The Commission may resolve related matters.

Text of proposed rule and any required statements and analyses may be obtained by filing a Document Request Form (F-96) located on our website http://www.dps.ny.gov/f96dir.htm. For questions, contact: John Pitucci, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 486-2655, email: john.pitucci@dps.ny.gov

Data, views or arguments may be submitted to: Kathleen H. Burgess, Secretary, Public Service Commission, 3 Empire State Plaza, Albany, New York 12223-1350, (518) 474-6530, email: secretary@dps.ny.gov

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement, Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

Statements and analyses are not submitted with this notice because the proposed rule is within the definition contained in section 102(2)(a)(ii) of the State Administrative Procedure Act.

(15-G-0376SP1)

Department of State

ERRATUM

A Notice of Emergency Rule Making, I.D. No. DOS-04-15-00004-E, pertaining to Installation of Carbon Monoxide Detectors in Commercial Buildings, published in the October 7, 2015 issue of the *State Register* contained the incorrect I.D. no. The correct I.D. no. for this rule making is DOS-28-15-00004-E.

The Department of State apologizes for any confusion this may have caused.

State University of New York

ERRATUM

A Notice of Adoption, I.D. No. SUN-29-15-00003-A, pertaining to State University of New York Tuition and Fees Schedule was filed with the Department of State on September 14, 2015, however, due to a system error, the notice was not published in the New York State Register. Following is the Notice of Adoption in its entirety:

NOTICE OF ADOPTION

State University of New York Tuition and Fees Schedule

I.D. No. SUN-29-15-00003-A

Filing No. 886

Filing Date: 2015-09-14

Effective Date: 2015-09-30

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Amendment of section 302.1(b) of Title 8 NYCRR.

Statutory authority: Education Law, section 355(2)(b) and (2)(h)

Subject: State University of New York Tuition and Fees Schedule.

Purpose: To amend the Tuition and Fees Schedule to increase tuition for students in all programs of the State University of New York.

Text or summary was published in the July 22, 2015 issue of the Register, I.D. No. SUN-29-15-00003-EP.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Lisa S. Campo, State University of New York, State University Plaza, Albany, New York 12246, (518) 320-1400, email: Lisa.Campo@SUNY.edu

Assessment of Public Comment

The agency received no public comment.